United States of America

Selective Service System

MEMORANDUM IN REFERENCE TO THE CLASSIFICATION OF JEHOVAH'S WITNESSES UNDER THE ACT AND REGULATIONS

[Submitted to the Presidential Appeal Board and Major General Lewis B. Hershey, Director of Selective Service, November, 1950.]

Members of the Presidential Appeal Board have consented to the filing of this memorandum in behalf of Jehovah's witnesses. The purpose of the memorandum is to give the members of the Board information concerning the organization known as Jehovah's witnesses and the Watch Tower Bible and Tract Society, the corporate legal governing body of Jehovah's witnesses. The relationship between the organization and the various officials and ministers in the organization, from the top of the headquarters staff down to and out to the isolated minister in the missionary field will be discussed. Incidental to a discussion of the various ministers and their relationship to the organization there will be discussed the proper classification of these persons under Section 6 (g) of the Act (Public Law 759, 80th Congress, Second Session) in reference to the classification of regular and duly ordained ministers of religion, and Section 6 (j) of the same Act in reference to the classification of persons "conscientiously opposed to participation in war in any form". It is hoped that this memorandum will be of aid to the members of the Board in placing upon the Act as broad an interpretation and as liberal a construction as was intended by members of the Congress in passing the Act, and also the President in the promulgation of the Regulations. A fair and liberal interpretation of the Act and Regulations when applied to the facts in respect to the activity of Jehovah's witnesses should constrain the Board to classify a large number of Jehovah's witnesses as ministers of religion and all of them as conscientiously opposed to participation in war in any form. This should preclude any classification of such persons that will obligate them to training and service.

THE LAW AND REGULATIONS INVOLVED

Section 6 (g) reads as follows:

"(g) Regular or duly ordained ministers of religion, as defined in this title, and students preparing for the ministry under the direction

of recognized churches or religious organizations, who are satisfactorily pursuing full-time courses of instruction in recognized theological or divinity schools, or who are satisfactorily pursuing full-time courses of instruction leading to their entrance into recognized theological or divinity schools in which they have been pre-enrolled, shall be exempt from training and service (but not from registration) under this title."

Section 6 (j) of the Act, among other things, reads as follows:

"(j) Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. Any person claiming exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the armed forces under this title, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, be deferred. Any person claiming exemption from combatant training and service because of such conscientious objections shall, if such claim is not sustained by the local board, be entitled to an appeal to the appropriate appeal board. Upon the filing of such appeal, the appeal board shall refer any such claim to the Department of Justice for inquiry and hearing. The Department of Justice, after appropriate inquiry, shall hold a hearing with respect to the character and good faith of the objections of the person concerned, and such person shall be notified of the time and place of such hearing. . . ."

Section 16 (g) (1) (2) (3) reads as follows:

"(g) (1) The term 'duly ordained minister of religion' means a person who has been ordained, in accordance with the ceremonial, ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

"(2) The term 'regular minister of religion' means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

"(3) The term 'regular or duly ordained minister of religion' does not include a person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization and does not include any person who may have been duly

ordained a minister in accordance with the ceremonial, rite, or discipline of a church, religious sect or organization, but who does not regularly, as a vocation, teach and preach the principles of religion and administer the ordinances of public worship as embodied in the creed or principles of his church, sect, or organization."

Section 1622.19 of the Regulations reads in part as follows:

"1622.19 Class IV-D: Minister of Religion or Divinity Student. —(a) In Class IV-D shall be placed any registrant:

"(1) Who is a regular minister of religion;

"(2) Who is a duly ordained minister of religion;

"(3) Who is a student preparing for the ministry under the direction of a recognized church or religious organization and who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

"(4) Who is a student preparing for the ministry under the direction of a recognized church or religious organization and who is satisfactorily pursuing a full-time course of instruction leading to entrance into a recognized theological or divinity school in which he has been pre-enrolled."

Section 1622.20 of the Regulations reads as follows:

"1622.20 Class IV-E: Conscientious Objector Opposed to Both Combatant and Noncombatant Training and Service.—(a) In Class IV-E shall be placed any registrant who, by reason of religious training and belief, is found to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces.

"(b) Section 6 (j) of title I of the Selective Service Act of 1948 provides in part as follows:

"Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code."

JEHOVAH'S WITNESSES

Jehovah's witnesses constitute an unincorporated body or denomination of ministers consecrated to do the will of Almighty God, under the leadership of Christ Jesus. They have drawn together for the purpose of declaring that he whose name alone is Jehovah is the Universal Sovereign, and that he is the Author and Creator of earth's permanent heavenly government of righteousness for which Christ Jesus taught his disciples to pray to Almighty God. To everyone they point out the only way to that kingdom which shall permanently take the place of all earth's present governments that shall be destroyed soon in Jehovah's battle of Armageddon.

Although Jehovah God has had His witnesses on earth for about sixty centuries, only in modern times did they draw together for organized world-wide work. In 1872 in America, at Allegheny near Pittsburgh, Pennsylvania, Charles Taze Russell began a Bible class that met regularly to study the Scriptures about Jehovah's kingdom and the second coming of Christ Jesus. Within a few years thereafter similar groups of students of the Bible, having these same interests, were organized throughout the United States. In due time such Bible-study classes were established in other countries. By following the course of study outlined by the headquarters in the United States those classes were unified and the students became of one mind, throughout the world, on what Almighty God through his Word teaches.

In 1884 the legal servant body of this international association was incorporated under Pennsylvania law. That nonprofit corporation, Watch Tower Bible and Tract Society, and the governing body of Jehovah's witnesses have been inseparably associated ever since. In 1909 the corporate headquarters were transferred from Pittsburgh to New York (Brooklyn) and then an associate charitable corporation was formed and used for carrying on the world-wide publishing work of Jehovah's witnesses. It is a New York corporation now known as Watchtower Bible and Tract Society, Inc. In other lands other associate corporations are used, such as International Bible Students Association in Great Britain and Canada.

Their Name

Since the beginning of their modern-day organization Jehovah's witnesses have been called various names. Their enemies and uninformed persons have falsely called them a "sect", naming them Russellites, Millennial Dawnites, Rutherfordites, etc. Although for nearly half a century these ministers of Almighty God used no distinctive name, referring to themselves as Christians, their friends and other interested persons called them "Bible students" or "international Bible students". In 1931 their representatives from many countries, assembled in convention in America, resolved that they 'desire to be known as and called by the name which the mouth of the Lord God has named, to wit, *Jehovah's witnesses*': "Ye are my witnesses, saith Jehovah." (Isaiah 43:10; 44:8, *AS*) Thereafter all local congregations or companies of Jehovah's witnesses throughout the earth declared themselves as recognizing this God-given name. (See 1941 *Yearbook of Jehovah's Witnesses*, pages 30-35.) True, in recent times men such as C. T. Russell and J. F. Rutherford participated prominently in this world-wide work as Jehovah's witnesses, even as in ancient days Christ Jesus, Paul, Peter, John the Baptist, Moses, Noah, Abraham, Abel and many others participated prominently in the work as Jehovah's witnesses. Yet it is Scripturally and factually manifest that only Almighty God Jehovah himself founded and continues to found or ordain His witnesses, and in proof thereof gives them His name. —Jeremiah 15:16.

Manner of Preaching

The method of teaching and preaching employed by Jehovah's witnesses is primitive. That is to say, they use the original method of preaching instituted by Jehovah's Great Witness, Christ Jesus. He and his apostles preached publicly and from house to house. (Acts

20:20) Every true Christian minister of the gospel is commanded to follow in their footsteps and must do likewise. (1 Peter 2:21; Luke 24:48; Acts 1:8; 10:39-42) Since Jehovah's witnesses take the message to the people, their preaching is distinguishable from that of the religious clergy, who require people to come to them and sit at their feet to be preached to.

Jehovah's witnesses do not confine themselves to building church edifices where they invite people to hear them preach. Experience and statistics prove that not all people can be reached in that manner, because they will not all come to such buildings.

More than 70,000,000 people in the United States do not belong to any religious organization. Many other millions do not attend any church, although they nominally belong to one of the religious organizations. These non-churchgoers are not heathen. The preaching activity of Jehovah's witnesses reaches not only these millions of persons who depend almost entirely upon Jehovah's witnesses to bring them spiritual food. Additionally, their preaching activity from door to door reaches millions of people who belong to religious organizations but who sigh and cry because of the abominations committed therein. (Ezekiel 9:4; Isaiah 61:1-3) Jehovah's witnesses have answered the need of these people by bringing them printed sermons at their homes, which meet their convenience. It is just as important to have primitive ministers and evangelists going from door to door to maintain the morale of these millions as it is to preserve the morale of those who attend some orthodox religious organization's church services. How would these persons who do not attend any church be comforted in their sorrow and obtain spiritual sustenance unless some missionary evangelist brought it to them at their homes? Few, if any, of the orthodox religious clergy call upon the people from door to door. They have their established congregation. They expect the people to come to their church edifices to receive what instruction they have to offer. Accordingly, these millions of persons would starve for want of spiritual food were it not for Jehovah's witnesses who bring Bible instruction to them in their homes. Thus Jehovah's witnesses locate the people of good will toward Almighty God. If they desire further aid in the study of the Bible Jehovah's witnesses establish Bible studies in their homes. In this way Jehovah's witnesses educate the people in the way of life and point them to the avenue of escape from the greatest crisis yet known.

Jehovah's witnesses are an international group of missionary evangelists who get their name from Almighty God, whose name alone is Jehovah. (Psalm 83:18; Isaiah 43:10-12, *AS*) Their preaching duties are to call from door to door, preaching and presenting Bibles and Bible literature explaining about God's kingdom described in the Bible as the only hope of the world. The whole earth is divided into countries or branches; each branch is divided into districts; each district is divided into circuits; each circuit is divided into areas; each area is assigned to one or more missionary evangelists of Jehovah's witnesses. The ones assigned to each area have a duty to preach from door to door in that area. Persons interested are called back on, for the purpose of establishing regular home Bible studies, which are conducted for a year or more. This is done in order that all such persons may get a complete understanding of the things that the Bible clearly teaches concerning God's kingdom and their relationship to Jehovah and His kingdom by Christ Jesus.

In addition to this method of preaching Jehovah's witnesses also preach on the street corners by distributing Bible literature. They also deliver public lectures and sermons in various buildings engaged by them for that purpose. Primarily the congregations of Jehovah's witnesses are in the homes of the people. Their pulpits may well be said to be at the doorstep of the home of every person of good will throughout the nation.

It is not necessary to know theology, philosophy, art, science and ancient classic languages to preach the gospel. One is not required to wear a distinctive garb, live in a parsonage, ride in an expensive automobile, have a costly edifice in which to preach, and command a high salary, to qualify as a minister of God. Jehovah's witnesses emulate their Leader, Christ Jesus, and His apostles, rather than the ancient or modern scribes and Pharisees. Instead of a program of choir and organ music followed by a discourse on science and philosophy of men, Jehovah's witnesses devote all their time to studying and teaching the Bible and carrying God's message to the people at their homes. They are ministers in the real and true sense and serve all the people. Paul, the apostle, said that the true minister teaches publicly and from house to house. (Acts 20:20) It is written that Christ Jesus "went round about the villages, teaching" and "preaching the gospel of the kingdom". (Mark 6:6; Matthew 9:35; Luke 8:1) The apostle Peter advises each minister of Jehovah God: "For even hereunto were ye called: because Christ also suffered for us, leaving us an example, that ye should follow his steps." (1 Peter 2:21) Jesus expressly commanded His twelve ordained ministers to go from house to house: "And as ye go, preach, saying, The kingdom of heaven is at hand." (Matthew 10:7, 10-14) In the four Gospel accounts of the ministry of Jesus, the words "house" and "home" appear more than 130 times, and in the majority of those times it is in connection with the preaching activity of Jesus, the great Exemplar. His example of carrying the gospel message to the people at their homes and in the public ways was "true worship". He said: "But the hour cometh, and now is, when the true worshippers shall worship the Father in spirit and in truth: for the Father seeketh such to worship him. God is a Spirit: and they that worship him must worship him in spirit and in truth." (John 4:23, 24) His apostle James further describes such worship by ministers of Almighty God at James 1:27, "For the worship that is pure and holy before God the Father, is this: to visit the fatherless and the widows in their affliction, and that one keep himself unspotted from the world."—*Syriac New Testament*, Murdock's translation.

Each of Jehovah's witnesses is a minister. If he is not a preacher he is not one of Jehovah's witnesses. A person is not a minister because he claims to be such. He is one because he is in fact preaching. If a person is duly trained, prepared and ordained for the ministry, and regularly preaches, teaches, conducts Bible services and performs the duties of his organization, then he is a minister. The work done by such a minister of Jehovah's witnesses cannot be done by a lay worker. Such work requires the training, learning and skill that are given only to ministers, evangelists and missionaries who are footstep followers of Christ Jesus. Persons not ministers, except those preparing for the ministry, are not authorized to engage in such preaching activity. Accordingly, it cannot be said that the work is that of a lay church worker. It is exclusively evangelistic, missionary work that requires training of a minister. Can it be suggested that the apostles were mere lay workers because they went from house to house? May it

be argued that they were not ministers of the gospel because they were footstep followers of Christ Jesus employing the primitive method of preaching? The mere asking of the question resounds the answer. Of course it could not be argued that the apostles were not ministers. If they were ministers, by force of the same reason their modern-day counterparts, Jehovah's witnesses, must be considered as ministers.

It has been argued, because each one of Jehovah's witnesses is a minister, that such is unreasonable. The enemies of Jehovah's witnesses and others have indulged in this argument without making a valid parallel in comparing the making of such a claim by the orthodox churches where there are clergy and laity. Of course, for such orthodox religious organizations it would be unreasonable to say that the laity who do not preach are ministers, the same as the priest or preacher who is the shepherd of the congregation. Such form of activity and religious worship is not that of Jehovah's witnesses. The Board should not apply the orthodox yardstick to Jehovah's witnesses. They cannot be measured by it. There is no comparison between the method employed by Jehovah's witnesses and the methods practiced by the clergy of the orthodox religious denominations. Practices of the orthodox religious groups that are in the majority cannot be used as a gauge for considering a dissentient or altogether differently constructed organization such as Jehovah's witnesses. To use such comparison is discriminatory. It deprives Jehovah's witnesses of their right to be considered according to the peculiar circumstances relating to their organization, which is entirely different from all others.

The clergy of the orthodox religions have their church buildings and edifices. Members of their congregations come there to hear them preach. Members of the congregation are not authorized or ordained to preach. They are the flock.

Jehovah's witnesses gather at their meeting places as a conference of missionary evangelists. Each one assembled is a consecrated evangelist and missionary. All discuss in conference, at such meetings for worship, ways and means of bettering their preaching as missionaries from door to door. Their "flock" and the members of their congregation do not all necessarily or ordinarily attend their meeting places. Such missionary evangelists go forth as did Christ Jesus and His apostles, from house to house and upon highways and byways and there deliver their message to the people. At such places thousands of persons receive spiritual instruction from those ministers as a result of the missionary evangelistic activity of Jehovah's witnesses.

Jehovah's witnesses are a society of missionary evangelists, ministers of religion, all of whom discharge their responsibility by preaching the gospel of God's kingdom as did Christ Jesus and the apostles. It is not unusual to hear of a society of ministers. Indeed there are such among some of the orthodox religious denominations. The Society of Jesus (Jesuits) is an illustration of a society of ministers. Each member is an ordained priest. No person can become a member of that organization without having first become a Roman Catholic priest. According to the comparison and analogy of some that have considered the question, the Jesuits could not be classified as ministers, because they belong to a society or organization where all the members are ministers.

In various Catholic missionary societies, the Baptist Home Missionary Society, and other missionary societies of the orthodox religious denominations, each missionary and evangelist is a minister. No one can be a member of such missionary society unless he is a missionary

evangelist. Each must be a minister. In such organizations they do not have the clergy-and-laity class distinction. Indeed, such missionary societies operate on the same principle as do Jehovah's witnesses. Each of such missionary evangelists goes from place to place, from house to house, in missionary fields of foreign countries, and preaches the tenets, traditions and precepts of his particular religion. Jehovah's witnesses engaged in the same sort of activity function in the same sort of way not only in foreign fields but also on the home front. Such missionary societies depend for their support and sustenance upon the people whom they serve in the homes. Their congregations are located in the homes of the people. So also are the congregations of Jehovah's witnesses located in the house or homes of the people.

Indeed, before modern days Christian congregations were composed entirely of ministers. The first Christian church, located at Jerusalem, was composed exclusively of the apostles and disciples. They studied under Jesus. They followed in his footsteps by preaching publicly and from house to house. Later others studied under the apostles of Jesus. At one time in Jerusalem there were five hundred Christian missionary evangelists, otherwise known as apostles and disciples. There is no record that any clergy-and-laity class distinctions were made in that congregation. Rather, each member of that group was required to participate in the missionary work by evangelizing the people from house to house, as commanded by Christ Jesus. When such early church at Jerusalem met it was as a conference of ministers to discuss ways and means of preaching. Their gatherings, like those held today by Jehovah's witnesses, were those of a congress or congregation of ministers to consider organizatiou instructions and to dispose of interests common to all. They did not gather as a number of laymen gather in a church edifice to listen to sermons by a minister.

It is conceded that Jehovah's witnesses are a religious organization within the meaning of the Act. The Selective Service System has so found. That cannot be denied. Since Jehovah's witnesses are a recognized religious denomination, it must be admitted that they are entitled to have some ministers. It is for Jehovah's witnesses to decide who their ministers are. As long as such ministers are actually teaching and preaching according to the legal governing body of Jehovah's witnesses, it is not for the Board to say that such is an improper method of preaching. Moreover, the Board cannot say that a minister, duly recognized by his organization, is not a minister because he does not preach in the same way that the preacher serving the members of the Board preaches. It has been seen that Jehovah's witnesses preach in the same way that the orthodox clergy preach. That is, they preach from pulpits and from platforms regularly. However, they do more than what the orthodox clergy do. In addition to pulpit preaching they engage in evangelistic work of calling from house to house. Also, they serve the people in their homes by conducting missionary home Bible studies. They perform other functions in discharge of their duties, such as conducting Memorial services, performing baptismal ceremonies, and burying the dead. In the performance of all these duties Jehovah's witnesses act as ministers. They do not work as lay workers. There is no laity among Jehovah's witnesses. The "laity", insofar as Jehovah's witnesses are concerned, are the people of good will who are to be found in the homes.

The fact that Jehovah's witnesses come from all strata of humanity is immaterial. The secular background of a minister of Jehovah's wit-

nesses has nothing whatever to do with whether or not he is actually teaching and preaching as a minister of the gospel. Whether a man has previously been a carpenter or a fisherman matters not. If he has satisfactorily completed a course of study in the Bible and Bible helps prescribed by the governing body of Jehovah's witnesses and has established his qualifications, that should be sufficient and conclusive upon the executive branch and judicial branch of the Government. The only relevancy that a man's background may have to his qualifications to act as a minister is upon the issue of whether he is fictitiously claiming to be a minister and falsely pretending to possess the necessary qualifications.

Distribution of Literature Preaching

Books and booklets are used by Jehovah's witnesses in their preaching work for the convenience of the people. Such publications contain the truths of the Bible in a permanent form for study by the interested person at his convenience. Today such persons cannot afford to have the minister stay with them hours or days at a time, as was customary centuries ago or in less recent years. Literature used by Jehovah's witnesses is a substitute for the oral sermon or Bible discourse that is available to only the few. The literature is not printed and distributed selfishly for commercial gain or to achieve a large volume of profits. Indeed the literature is offered on a contribution basis. Persons unable to donate toward the work but who are interested may have the literature free or upon such terms as they desire to receive it. (1 Corinthians 9: 11-14) Contributions received when the literature is distributed are used to help defray cost of publishing and distributing more like literature. Any deficit is taken care of by Jehovah's witnesses.

The method of preaching employed by Jehovah's witnesses is by making house-to-house calls, and regularly delivering public sermons, preaching in the schools and congregations of Jehovah's witnesses, conducting home Bible studies, preaching on the streets and distributing literature containing explanation of Bible prophecies. It has been argued that Jehovah's witnesses are mere distributors of books. It is asserted that they are colporteurs and no more. It is said then that by reason of this status they are not entitled to claim the benefit of the exemption contained in the Act. It boils down to the argument that Jehovah's witnesses, although a religious organization, are not entitled to have ministers protected by law, even though the protection is extended to the ministers of all other denominations. This is grossly inconsistent with the former Selective Service policy with reference to other religious organizations which are engaged solely in the business of distributing books. For instance, the colporteurs of the Seventh-Day Adventist organization are not ministers in the sacerdotal sense.

Seventh-Day Adventist colporteurs are mere "Gospel workers" whose qualifications are claimed to be equal in standing with those who preach the gospel. (White, *The Colporteur Evangelist*, Mountain View, Calif., 1930) They are not ordained as are Jehovah's witnesses. They merely sell books. They do not conduct home Bible studies. They do not make revisits; they do not preach before congregations; they do not conduct baptismal ceremonies; they do not participate in the burial of the dead; they do not perform other ceremonies, all of which are performed by Jehovah's witnesses, as will be hereinafter shown. Nevertheless the liberal policy of the Government was extended so as to permit these colporteurs of the Seventh-Day Adventist organization to be classified as ministers of religion exempt from all training and service.

In allowing the colporteurs to be classified as ministers no stringent requirement was invoked for the consideration of their classification as is invoked in the consideration of the claim for exemption by Jehovah's witnesses. Compare the requirements: State Director Advice 213-B issued by General Hershey, in determining the ministerial status of these Seventh-Day Adventist colporteurs, among other things, says that "even though they are not ordained" they are entitled to be classified as ministers of religion when any such colporteur is "found to be actually engaged in a *bona fide* manner in full-time work of this nature and files evidence of possession of a colporteur's license or a colporteur's credentials."

Jehovah's witnesses are more than colporteurs. They preach and teach, in addition to merely distributing literature.

The term "regular minister of religion" as used in the Selective Training and Service Act of 1940 was given a very broad definition by the National Director of the Selective Service System insofar as it applied to most religious organizations and their ministers. "The principle was extended to persons who were not, in any strict sense, ministers or priests in any sacerdotal sense. It included Christian Brothers, who are religious, who live in communities apart from the world and devote themselves exclusively to religious teaching; Lutheran lay teachers who also dedicate themselves to teaching, including religion; to the Jehovah's Witnesses, who sell their religious books, and thus extend the Word. It includes lay brothers in Catholic religious orders, and many other groups who dedicate their lives to the spread of their religion." *Selective Service in Wartime*, Second Report of the Director of Selective Service 1941-42, Government Printing Office, 1943, p. 241.

The Director of Selective Service did not confine the preaching and teaching to oral sermons from the pulpit or platform. He said that such is not the test. "Preaching and teaching have neither locational nor vocal limitations. The method of transmission of knowledge does not determine its value or affect its purpose or goal. One may preach or teach from the pulpit, from the curbstone, in the fields, or at the residential fronts. He may shout his message 'from housetops' or write it 'upon tablets of stone.' He may give his 'sermon on the mount,' heal the eyes of the blind, write upon the sands while a Magdalene kneels, wash disciples' feet or die upon the Cross. He may carry his message with the gentleness of a Father Damien to the bedside of a leper, or hurl inkwells at the devil with all the crusading vigor of a Luther. But if in saying the word or doing the thing which gives expression to the principles of religion, he conveys to those who 'have ears to hear' and 'eyes to see', the concept of those principles, he both preaches and teaches. He may walk the streets in daily converse with those about him telling them of those ideals that are the foundation of his religious conviction, or he may transmit his message on the written or printed page, but he is none the less the minister of religion if such method has been adopted by him as the effective means of inculcating in the minds and hearts of men the principles of religion.

"But to be a 'regular minister' of religion he must have dedicated himself to his task to the extent that his time and energies are devoted to it to the substantial exclusion of other activities and interests." *Selective Service in Wartime*, pp. 240-241.

Training and Ordination

One does not become a minister of Jehovah's witnesses upon suddenly declaring his intention to preach the gospel. He cannot abandon secular work and take up preaching as one of Jehovah's witnesses without first having received instruction and training for the ministry. He must first be a student preparing himself for the ministry before he undertakes to act as an ordained minister of Jehovah's witnesses. His period of preparation may vary, depending upon his diligence, aptitude, concentration and previous education. Ordinarily he must attend the study classes in one of the congregational schools established and operated by Jehovah's witnesses to prepare others for the ministry. The schools operated for the purpose of preparing Jehovah's witnesses for the ministry are continuous.

While Jehovah's witnesses of today do not attend any theological seminary or religious university in preparing for their ministry, neither did Christ Jesus nor his apostles nor any others of Jehovah's witnesses who performed their God-given ministry even in the many centuries before Christ Jesus' days on earth. Today, however, they do receive an adequate and regular course of instruction and training before their ordination as ministers of Jehovah God and Christ Jesus. Each congregation or company of Jehovah's witnesses maintains regular classes for instruction of ministers and for students preparing for the ministry. The main textbook is the Bible. Other books and courses of instruction, free of all erroneous traditions and false dogmas, are provided to thoroughly equip the student for the good works of the ministry he expects to enter. Moreover, actual practice in the ministry is provided the student under the direction of a mature minister in order that the training provided will be complete.

Although school classes for ministers and students preparing for the ministry are continuous, considerable time must be spent by the student preparing for the ministry before he becomes equipped to enter the ministry. Some establish their qualifications quicker than others. To acquire the needed knowledge might take many months, or even years, for some; while others may become informed adequately in a few months. The time required depends entirely upon the diligence and ability of the student. In every case the student must show that he has consecrated himself to Jehovah to do His will under leadership of Christ Jesus, primarily, and that he is apt to teach and preach. Such prime requirement is essential before the student is recognized and sent forth as a regularly ordained minister of Jehovah's witnesses. —2 Timothy 2:24, 25.

Each one of Jehovah's witnesses is usually ordained. If he has not been ordained it is due to the fact that he is engaged in studying in preparation for the ministry or may enter into activity as a regular minister who has not undergone the regular ordination ceremony. The ordination is in accordance with the regulations of the legal governing body of Jehovah's witnesses. They are therefore ordained ministers of religion within the meaning of the Act and Regulations. The Director of Selective Service declared that while ordination in many of the large orthodox denominations is accompanied by elaborate ceremonies, in many other organizations, including the dissentients and unorthodox groups, "it is the simplest of ceremonies or acts without any preliminary serious or prolonged theological training. The determinations of this status by the Selective Service System have been generous in the extreme." *Selective Service in Wartime*, Second Report of the Director of Selective Service 1941-42, p. 240.

It has been held that the term "ordained minister", as used in the statute licensing ministers to solemnize marriage ceremonies, "has no regard to any particular form of administering the rite or any special form of ceremony. . . . It has been the practice of this court, therefore to grant the license to authorize the solemnization of marriages to duly commissioned officers in the Salvation Army who are engaged under such authority in ministering in religious affairs; to all Protestant ministers, Catholic priests, Jewish rabbis, teachers and ministers of spiritualistic philosophy, and in fact all persons who can prove to the satisfaction of the court that they have been duly appointed or recognized in the manner required by the regulations of their respective denominations, and are devoting themselves generally to the work of officiating and ministering in the religious interest and affairs of such societies or bodies." In re *Reinhart*, 9 Ohio Dec. 441, 445.

The word "ordain" (ordained) means "to establish by appointment", "to appoint or establish." Webster's *New International Dictionary;* Funk & Wagnalls' *Practical Standard Dictionary.*

The Encyclopedia Americana (1942 Ed., vol. 20, p. 770) defines ordination as "The ceremony by which priests, deacons, subdeacons, candidates for the minor orders and ministers of any denomination are admitted to their specific office in the church." See also *The Encyclopædia Britannica* (11th Ed., vol. 28, p. 527 *et seq.*).

The Cyclopedia of Biblical, Theological and Ecclesiastical Literature defines ordination as "the ceremony by which an individual is set apart to an order or office of the Christian ministry. . . . In a broader, and in fact its only important sense, . . . the appointment or designation of a person to a ministerial office, whether with or without attendant ceremonies. The term ordination is derived directly from the Latin *ordinatio,* signifying, with reference to things or affairs, a setting in order, an establishment, an edict, and with reference to men, an appointment to office. . . . A scriptural investigation of this subject can hardly fail to impress any ingenuous mind with the great significance of the fact that neither the Lord Jesus Christ nor any of his disciples gave specific commands or declaration in reference to ordination." (Vol. VII, p. 411, McClintock and Strong, 1877, Harper & Brothers, New York)

The system of ordination according to the doctrine of apostolic succession was practiced by the Roman Catholic Hierarchy from about the tenth century. It was fully restated by the Council of Trent as well as in the formularies of the Roman pontifical, the characteristics of which are: (1) that clerical orders constitute a sacrament; (2) that seven clerical orders (exclusive of seven grades of bishops, of which the pope is supreme) are those of priest, deacon, subdeacon, acolyte, exorcist, reader and porter; (3) that bishops only are competent to confer ordination; (4) that the effect of ordination is to impress on the recipient an indelible mark; (5) that the priest has authority to offer sacrifice for living and dead. In passing, it must be noticed that the Roman Catholic Hierarchy ordains its ministers several times. An individual is ordained when he becomes a priest and each time he is elevated to a higher office, such as bishop, archbishop and cardinal. *Op. cit.;* see *Encyclopedia Americana,* 1942 Ed., vol. 2, p. 70; *The Catholic Encyclopedia* (1911, Robert Appleton Company, New York), Vol. 11, p. 279 *et seq.*

The above-stated theory of ordination had universal prevalence throughout Christendom from the sixth to the sixteenth century. A

prominent factor of the Reformation was a violent reaction against the dogmas and abuses of the Roman Catholic system of ordination. Without exception Protestants rejected the "five sacraments" of the Roman Catholic Church as fictitious. Almost all such churches forsook those ordination ceremonies during the Reformation and fell back on the Scriptural precedent as their sole guide for modes of appointing and ordaining ministers.

Among the independents and Baptists the power of ordination is considered to adhere to any given congregation of believers. The qualifications of a candidate are first ascertained and he is approved by a church, called and accepted. The congregation proceeds to confer ordination upon him by prayer. *Op. Cit.*, p. 417.

This same broad and liberal interpretation of the term "ordained minister" as it relates to exemption of a minister of a religious denomination under the National Selective Service Mobilization Regulations of Canada has been considered by Mr. Justice McLean of the Supreme Court of Saskatchewan in the case of *Bien* v. *Cooke* (1944), 1 W. W. R. 237. In that case he said: "Although the whole congregation is very indefinite considered from a secular point of view and they appear to be without any prescribed procedure in the matter of ordaining the minister, yet various denominations use various forms of ordination and if the procedure is satisfactory to the congregation, as appears to be in this instance, that should be considered sufficient form of ordination."

With the exception of the Roman Catholic Church and the Church of England, the term "ordained minister" means an *appointed minister* and is not confined to any particular kind of ceremony or formalism. Many groups, such as the Society of Friends, Disciples of Christ, Plymouth Brethren and Jehovah's witnesses do not recognize any human right of ordination. They recognize the ordination as coming only from Almighty God Jehovah. This may be recognized and certified by men. Man-made institutions and legal corporations that act as governing bodies of such may declare one to be duly ordained, and issue credentials of authority or ordination. The ordination proceeds only from Jehovah God and His Son, Christ Jesus.

Compare the history of the method of ordination in the following churches: Baptist, Congregationalist, Methodist. Disciples of Christ, Society of Friends (Quakers), Lutheran, Presbyterian.

The ordination of Jehovah's witnesses emanates from the Most High God "whose name alone is JEHOVAH". (Psalm 83:18; Isaiah 61:1-3) He is the Source of all power and authority and the One who authorizes ordination of His ministers. The ceremony used by Jehovah's witnesses to establish by public witness the ordination of a minister is identical with the ceremony that Christ Jesus underwent after He was ordained. A very simple ceremony marked the beginning of His ministry. He symbolized His consecration by undergoing the ceremony of water baptism in the River Jordan. (Matthew 3:13-17) It is this same simple ceremony that every one of Jehovah's witnesses goes through as a public symbolizing of his consecration to preach and of his ordination. No other ceremony is prescribed. After His ordination ceremony by baptism in the River Jordan, Christ Jesus publicly stated the Source of His ordination by quoting from Isaiah 61:1, 2. He said: "The spirit of the Lord is upon me, because he hath anointed me to preach the gospel to the poor; he hath sent me to heal the brokenhearted, to preach deliverance to the captives, and recovering of sight

to the blind, to set at liberty them that are bruised, to preach the acceptable year of the Lord. . . . This day is this scripture fulfilled in your ears."—Luke 4:18-21.

The submission to the ordination ceremony of public immersion in water brands the minister of Jehovah's witnesses. It marks him as a person who has dedicated his entire life to the service of Jehovah God as a minister, bound to preach the gospel of God's kingdom as long as he lives prior to Armageddon. His ordination implies the acceptance of the obligations which it imposes. A complete, unbreakable agreement on the part of the minister thus ordained, to follow in the footsteps of Christ Jesus, is entered into. The one ordained cannot turn aside from his covenant to preach, for any reason. The covenant requires faithful preaching, even to the point of death. An ordained minister of Jehovah God cannot turn back without violating his covenant. The turning back from preaching will result in his everlasting death, because God declares that covenant-breakers are worthy of death. —Acts 3:23; Romans 1:31, 32.

While no particular worldly education or a degree from a theological school is required as a condition precedent to the enrollment of a minister in the full-time pioneer missionary evangelistic work, there are certain requirements that must be complied with. The minister desiring to enter the full-time missionary work as a pioneer must satisfactorily establish that he possesses the necessary qualifications. He must show that he has a thorough knowledge of the Bible and is apt to teach and preach. He must have studied thoroughly the publications of the Watch Tower Bible and Tract Society explaining the doctrines and teachings of the Bible as viewed by Jehovah's witnesses. Ordinarily it will be found that a pioneer has regularly attended, for a satisfactory period of time, one of the ministry schools conducted by Jehovah's witnesses.

Youthfulness of Jehovah's Witnesses No Disqualification

The ministry is not confined to adult persons or to the aged. Youths not only are permitted to preach, but are invited to do so. (Joel 2:28, 29; Psalm 148:12, 13) All children of Jehovah's witnesses should be brought up in the nurture and admonition of the Lord, being trained for the ministry at a very early age. After being thoroughly schooled, they may enter the ministry, if they so desire, although yet children or youths. Ancient outstanding examples are Samuel, Jeremiah and Timothy, whose faithfulness as Jehovah's witnesses in very early youth is proof of the propriety of children's acting as ministers. (1 Samuel 1:24; 2:11; 3:1; Jeremiah 1:4-7) Paul the apostle declares that he sent Timothy forth as a minister. (1 Corinthians 4:17) Timothy was instructed by Paul to let none despise his youthfulness.—1 Timothy 4:12.

The youthfulness of any of Jehovah's witnesses does not affect his qualifications for the ministry. If he is old enough to be taken into the armed forces and assume such responsibilities he is old enough to be a minister. Preaching at an early age is not unusual to followers of Christ. Jesus' parents reared him "in the nurture and admonition of the Lord" as required by Jehovah and as commanded in His statutes recorded at Deuteronomy 6:4-7. They found him teaching in the temple at an early age. See Ephesians 6:1-4: "Children, obey your parents in the Lord: for this is right. Honour thy father and mother; which is the first commandment with promise; that it may be well with thee,

and thou mayest live long on the earth. And, ye fathers, provoke not your children to wrath: but bring them up in the nurture and admonition of the Lord." See also Ecclesiastes 12:1; Psalm 71:17; Genesis 18:19.

Christ Jesus, when but twelve years of age, was already about his "Father's business", discussing the Scriptures. (Luke 2:46-49) When preaching the gospel later on, He said: "Suffer little children to come unto me, and forbid them not: for of such is the kingdom of God." (Luke 18:16; see also Matthew 18:1-6.) Psalm 8:2: "Out of the mouth of babes and sucklings hast thou ordained strength"; Psalm 148:12, 13: "Both young men, and maidens; old men, and children: let them praise the name of the LORD: for his name alone is excellent; his glory is above the earth and heaven." See also Proverbs 8:32.

Regardless of the age at which the person began his ministry, there is nothing to show that he was disqualified to act as a minister of Almighty God at the time of his classification, and, as a minister, he is entitled to complete exemption.

Moreover, the fact that one may be of military age and in good health has nothing to do with his liability for training and service if the evidence shows that he is engaged in the performance of his duties as a minister of religion. Every person knows that even a man with a leg amputated can be a duly qualified and acting minister of religion. Therefore the physical condition of the registrant is entirely irrelevant and immaterial to the issues.

STRUCTURE OF ORGANIZATION

Jehovah's witnesses constitute the visible part of the theocratic organization of Almighty God. The invisible part of the organization is composed of Jehovah God, His Son, Christ Jesus, and the multitudes of angels and other spirit creatures invisible to human eyes. The organization is ruled by Jehovah God from the top down. Jehovah's witnesses believe that Almighty God directs, through his Son, Christ Jesus, the preaching activity they do world-wide.

Headquarters Staff

Jehovah's witnesses believe that the "higher powers" are Jehovah God and Christ Jesus and that they direct their preaching work, using as the earthly instrument therefor the international headquarters of Jehovah's witnesses. The visible organization is directed by the headquarters staff, known as the Bethel Family. The Bethel Family is comprised of persons living and working at the institutions maintained by the Watchtower Bible and Tract Society, Inc., located at 124 Columbia Heights, Brooklyn, New York (known as the Bethel Home), 117 Adams Street, Brooklyn (the publishing plant), 1111 Woodrow Road, Staten Island, New York (the radio transmitter location and the gardens providing food for the Bethel Family), Kingdom Farm, South Lansing, New York, where there is operated the Watchtower Bible School of Gilead (a foreign missionary training school) and the farms used to produce food for the sustenance of the Bethel Family, and Mountain Farm in New Jersey (a truck and dairy farm).

All persons residing at any and all of the above-named institutions are ordained ministers. They carry out their ordination by full-time service in various capacities at the Society's institutions.

At the Bethel Home (124 Columbia Heights, Brooklyn, New York) are located the executive offices, including the office of the president, the office of the secretary-treasurer and the office of the general counsel for Watch Tower Bible and Tract Society and Jehovah's witnesses. Also located at the Bethel Home are living quarters, kitchen, dining room, laundry, tailor shop, shoe shop, hospital and other service facilities and the office of the Bethel servant who supervises the operation of the institution. The living quarters house the members of the Bethel Family working either at 124 Columbia Heights or at 117 Adams Street. These living rooms are maintained by consecrated women who are also missionaries and ministers. Also located at the Bethel Home are the office and broadcasting studios of Radio Station WBBR, which is devoted exclusively to religious and charitable broadcasting, and its programs and broadcasting are confined to carrying out the chartered purposes of the Watchtower Bible and Tract Society, Inc., and to further generally the preaching work of Jehovah's witnesses.

The general offices of the Society and the main printing plant of Jehovah's witnesses are located at 117 Adams Street, Brooklyn, New York. From this building are carried on the general correspondence work and the general supervision of the preaching activity by Jehovah's witnesses throughout the United States. Persons are here engaged in this supervisory work in various capacities. Also from this general office the Society sends out throughout the United States traveling ministers who visit congregations and assemblies and who supervise directly the preaching activity carried on by Jehovah's witnesses in this country.

In addition to the general offices there is also located a large printing plant in this building. The printing plant is equipped with its own power plant and presses, machinery and other instruments to print and publish Bibles, the *Watchtower* magazine, *Awake!* magazine (official journals of Jehovah's witnesses), books, booklets and leaflets. All contain printed sermons used by Jehovah's witnesses in the field for preaching.

At 1111 Woodrow Road, Staten Island, New York, is located another branch of the Bethel Family. Here there is situated a small "Bethel Home" where provision is made for the housing and feeding of ministers assigned to carry out the chartered purposes of the Society on such property. Some of such persons are engaged in raising truck garden produce, fruit and other food needed to feed them as well as members of the Bethel Family at the Bethel Home in Brooklyn. Other persons located at such institution are engaged in the operation and maintenance of the radio broadcasting transmitter for the broadcasting of the religious and educational programs which emanate from the studios at the Bethel Home in Brooklyn.

At South Lansing, New York, the Society maintains and operates a large farm of more than one thousand acres. Located on this farm are several buildings housing the living quarters and classrooms of the Watchtower Bible School of Gilead, where one hundred students in each class attend the foreign missionary training school conducted by instructors who are ministers. The buildings also house the offices of the school and the office of the Farm servant who has the general supervision of the farm. Also in these buildings are sleeping rooms for the housing of members of the Bethel Family assigned to do work at the farm. Here also the members of the Bethel Family, the students and the faculty are provided meals. Barns and other farm buildings are lo-

cated on the farm for the housing of equipment and animals. The persons residing on this farm who do not attend the missionary school or teach in it are engaged in raising large amounts of food for the feeding of the one hundred and fifty persons located at the farm, the thirty persons located at Staten Island and the three hundred and fifty persons located at 124 Columbia Heights, Brooklyn, all of whom comprise the Bethel Family.

At the small truck garden and dairy farm located near Hackettstown, New Jersey (known as Mountain Farm), four or five persons reside whose duties are raising vegetables and operating the dairy maintained on the property. The milk is used for the feeding of members of the Bethel Family at Brooklyn and Staten Island.

All persons who are members of the Bethel Family residing at any of the above institutions are duly ordained ministers. No person who is not a duly ordained minister is called to perform work at the headquarters or to become a member of the Bethel Family. All persons who are members of the Bethel Family devote eight and three-quarters hours daily to the performance of the various assigned duties at one of the Society's institutions. At nighttime following the performance of his assigned task at the institution, on Sundays, and on holidays each member of the Bethel Family engages regularly and customarily in preaching and teaching the doctrines and principles of Jehovah's witnesses as a missionary evangelist from door to door and on the streets.

Some of the men who are members of the Bethel Family are assigned to serve assemblies and congregations for preaching from the pulpit and delivery of public talks before the congregations in various parts of the eastern part of the United States. Such persons are sent out on week-end assignments to serve Jehovah's witnesses as speakers. Also some of such persons are sent out to supervise and visit the cougregations as described above. No person who is not an ordained minister of Jehovah's witnesses is permitted to reside upon the premises or perform work at the headquarters of the Society or become a member of the Bethel Family.

The position of the headquarters staff (Bethel Family) and the work of the various individuals constituting the Bethel Family at the various institutions above described are fully explained in the official publication of Jehovah's witnesses known as the *Yearbook of Jehovah's Witnesses*. See 1944 *Yearbook of Jehovah's Witnesses*, pages 23-48, 1945 *Yearbook of Jehovah's Witnesses*, pages 31-42, 1946 *Yearbook of Jehovah's Witnesses*, pages 22-32, 1947 *Yearbook of Jehovah's Witnesses*, pages 19-30.

The Bethel Family has been described by General Lewis B. Hershey, National Director of the Selective Service System, in his State Director's Advice 213-B, as follows:

"Members of the Bethel Family are those members of Jehovah's Witnesses who devote their full time and effort to the manufacture and production of books, pamphlets, and supplies for the religious benefit of Jehovah's Witnesses, the purpose of which is to present the beliefs of Jehovah's Witnesses and to convert others. For their religious services, the members of this group are said to receive their subsistence and lodging and in addition a very modest monthly allowance. This group of individuals consists of the office and factory workers at 117 Adams Street, Brooklyn, New York, and workers in the executive offices at 124 Columbia Heights, Brooklyn, New York, and at the Farms."

There is nothing whatever to indicate a narrow interpretation of the term "minister of religion" so as to exclude ministers like the members of the Bethel Family whose lives are devoted to the furtherance of the chartered purposes of the religious organization. Ministers could not be recognized without having a religious denomination. A religious denomination cannot operate without a head. A head need not be confined to one person. Facts and history show that every recognized religious denomination has hundreds and sometimes thousands of persons associated with the head of the body to direct the preaching activity of the ministers in the field. The Roman Catholic Hierarchy has the cardinals and priests at Vatican City. It has its archbishops, bishops and priests ruling down the ladder of the Hierarchy above the priests who preach from the pulpit. A religious organization cannot operate without a headquarters staff. To function the headquarters staff may properly be filled from among the ordained ministers in the field. The ordained ministers performing the various functions at the headquarters of a religious organization are usually recognized by the members of the denomination in the field to be of a higher order even than the preacher in the local congregation. The law should maintain the same recognition as is maintained by the religious organization within itself.

An organization operated on a theocratic basis like Jehovah's witnesses or on a hierarchial basis like the Roman Catholic Church must have the privilege of assigning its ministers who are members of the headquarters staff to do ministerial work in the execution of the chartered purposes of the organization different from and instead of preaching in the pulpit. Without the performance of such services by ministers exempt from training and service the headquarters of a religious organization could not be maintained.

While there was no explanation, either in the hearings had in Congress in reference to the present Act or upon the floor of the House or Senate when the exemption provisions were considered, the Act certainly must be construed so as to give a broad and liberal interpretation to the provisions exempting ministers of religion so as to cover ministers performing services at the headquarters of a religious organization.

It must be conceded that the Congress had in mind giving the headquarters staff of religious organizations the same protection under the 1948 Act as was given to the headquarters of religious organizations under the 1940 Act. Reference will now be made to the hearings before the Committee on Military Affairs, House of Representatives, 76th Congress, 3rd Session on the Burke-Wadsworth Bill (H. R. 10,132). Quotations from this reference show a Congressional intent to protect and exempt completely all ministers, regular or ordained, engaged in the performance of services and necessary duties in connection with the administrative functions of a religious organization at its headquarters.

When H. R. 10,132 was before the Committee on Military Affairs, House of Representatives, 76th Congress, 3rd Session, it was amended so as to protect fully ordained ministers and religious institutions. Reference is made to the statement made by the Rt. Rev. Monsignor Michael J. Ready, General Secretary of the National Catholic Welfare Conference, Washington, D.C. He appeared before the Committee on Tuesday, July 30, 1940. Among other things he said:

"Because of the serious damage this bill would cause to the religious, educational and charitable institutions of the church, and consequently to our whole civil society, the bishops are opposed to provisions in this bill which include for compulsory military service students for the

priesthood and brothers under vow to serve the works of religion. . . .

"We believe that Congress understands better than military professionals the services to our American society which religion has established, supported and administered. These services are given to the Nation not only in specific churches and houses of worship but also in universities, colleges, secondary schools, hospitals, houses of protection and correction for youth, and in a wide variety of special agencies for mercy and charity. These institutions are staffed and directed by a personnel consecrated to the ministry of religion. Young men willingly enter our seminaries and novitiates in answer to a call of conscience. They volunteer to dedicate their lives to the service of Christ and the service of their neighbor for the love of and in imitation of Christ.

"They may expect no earthly remuneration in this ministry, except a frugal, humble subsistence. We do not believe that the Congress of the United States will knowingly destroy or interfere with such heroic religious practice. We hold that much of the world's present distress is due to the spirit of stark materialism which has seized the minds and wills of men and nations. This Republic has been enriched by the Christian social services fostered by the church and administered from the motive of Christian charity and benevolence. We believe that the Congress will insure continued protection to that consecrated service for God and humanity. . . .

"Candidates for the priesthood are selected with great care, they are given a long preparatory training leading up to the study of theology. The seminary is not merely an educational institution, it is above all a place of formation for those priestly virtues and that mode of life which will enable the priest to serve Christ by example as well as by teaching and preaching and the administration of institutions of social charity. Any interruption of this strict discipline will work to the disadvantage of the individual candidates and to the great detriment of the church in the maintenance of her institutions. . . .

"Experience in wartime is evidence that any loss of fighting personnel arising out of the exemption from the selective draft of ministers of religion and students for the ministry is not only meager, but generously compensated for by the advantage of morale, unity, and loyalty promoted and maintained among noncombatants by the clergy and among combatants by the offices of the Chaplain Corps. . . .

"Immunity from military service is inseparable from the right of a people to religious liberty. It is not a privilege conceded unfairly to the ministers of religion as a class. In respecting the immunity of the clergy from military service the state recognizes the right of the people at all times to practice their religion and to have available for that purpose the ministrations of their priests."

This testimony appears at pages 299 to 305 of *Hearings Before the Committee on Military Affairs*, House of Representatives, 76th Congress, 3rd Session, on H. R. 10,132 (Burke-Wadsworth Bill).

Representative Martin J. Kennedy wrote a letter to the Military Affairs Committee also arguing for the complete exemption of ministers performing administrative functions in connection with the operation of a religious organization at its headquarters. He was alarmed at the failure of Congress in the original bill to provide for the complete exemption of ministers. Section 7 (c) placed ministers of religion in deferment rather than exemption. He was clearly concerned over the welfare of ministers performing administrative functions, such as the Lay Brothers of the Catholic Church. He wrote to the Committee as follows:

"House of Representatives,
Washington, D. C., August 7, 1940.

"Military Affairs Committee,
House of Representatives.

"Gentlemen:

"To me it seems imperative that action be taken by your committee to insure that the Wadsworth bill be so modified as to make due provision for the religious life of the American people. As you know the sole provision of the bill in this matter is the President's right to defer the service rendered by ministers of religion actually engaged in ministerial duties. No provision is made for those who are preparing for the ministry: seminarians. Nor is any provision made for those indispensable members of a religious community, whose duties it is to attend to the domestic work of the religious house—the coadjutor brothers. These men make it possible for priests to attend to their proper work.

"To me it seems clear that the good of the American people requires that all these classes—clergymen, seminarians, and Brothers—be exempted from service under the bill. . . .

"It is evident to intelligent observers that religion is the backbone of all moral conduct; religion supports authority, teaching respect for law and order. Principles derived from religious moral teaching make the average man an honest man, a law-abiding citizen. Teaching, for example, that God forbids murder under threat of eternal punishment, religious instructors have proposed a motive for avoiding this crime far in excess of any which the state can assign or carry out; and so also of all other crimes. It is, therefore, good public policy to provide for the continued and flourishing existence of religion; I do not, of course, suggest any link with any particular form of religion but an even-handed dealing with all religious bodies.

"Religion is one of the needs and demands of the American people. In fact, the bill under discussion may be said to recognize this need since it makes some effort to provide for religious ministers. The precise point is that the provision of this bill in this respect is not adequate.

"Granted that religious ministers are to receive some consideration under this bill, consistency and thoroughness require that this consideration (1) amount to total exemption from training and service, and (2) be extended not only to ministers already ordained, but also to the two groups mentioned above, seminarians and Brothers.

"Let me take the three points that here suggest themselves in order:

"1. Total exemption of ordained clergymen,

"2. Total exemption of seminarians,

"3. Total exemption of Brothers.

"1. Total exemption of ordained clergymen. The American people enjoy the right to exercise freely their right to worship. To do this adequately, each religious group requires and desires that it be possessed of a group of trained religious educators and leaders known as the clergy. The principle, therefore, that each man should serve where he will do the most good and best further his country's interests in time of war requires that in time of war the clergy remain clergy. That is their specialty. There they are most efficient. There they are most needed. It is a well-known adage that 'without hope the people perish.'

And truly this is especially manifest in time of war when the buoyant and hopeful solution of life given by religion alone suffices to lift up fainting spirits.

"2. Total exemption of seminarians. The public need for a properly trained clergy already described is a permanent thing, lasting as long as there endures the ineradicable tendency in man toward higher things. To satisfy this permanent need, a continuous stream of trained religious leaders must be entering upon their work. This cannot be if we do not permit our seminaries to continue their normal functioning. For where are we to find our future ministers of religion if not in seminaries? It must be clear that if you take away the seminarian of today you take away the priest, minister, or rabbi of tomorrow. And whether the morrow bring peace or war, we can ill afford to lack spiritual leaders, be they chaplains to encourage and befriend our soldiers or be they pastors who instruct and serve our people.

"But it may be objected that there is no intention under the bill of destroying the seminarian class, that all that is required is a temporary interruption of the course pursued by the seminarian. To this objection, let me answer, first, that such an interruption of a full year in the midst of a course of study which of its nature is continuous and closely linked would be an immense set-back in the progress of the seminarian toward his goal. Secondly, and this response is more basic, the objection misses the whole point at issue. That point is precisely this: The seminarian is destined to serve the people as a clergyman, whether in peace or in war. Hence any training of him for other work is a needless waste of time and money.

"The measure to be taken, therefore, is one recognizing the principle that an adequate clergy group is a really fundamental necessity in time of war and hence, parallelly, an adequate seminarian group is a real necessity in time of preparation. No bona fide seminarian should be shunted off the course he has entered upon and drafted into some other field of public service, thus deserting the line for which he is best adapted.

"This leads us to another seeming objection to my proposal, which, in fact, however, has no weight. That is the objection that spurious seminaries and seminarians will suddenly appear all over the country in order that conscription be evaded. Even if some less spirited youths might be tempted to try this ruse, is it not clear that a little careful examination of each institution will quickly reveal which are genuine seminaries containing sincere seminarians and which are so-called seminaries containing opportunists? For, surely, it is a matter of public record in each locality which seminaries have been in existence for a term of years before the war scare sufficient to prove that avoidance of military service had nought to do with their existence. Again, the records of these seminaries will reveal the average number of entrees each year. Only if the number this year notably exceed that of recent years may suspicion be cast on the genuine good intentions of those entering this year.

"3. Total exemption of Brothers. We may distinguish two types of Brothers; viz: those who directly serve the people at large, for example by teaching, and those who do so indirectly, namely by directly serving priests or other religious who in turn serve the people directly. I contend that both classes should be totally exempted from military service and training. This exemption is due to the first class—those who serve the people at large directly— because their functions are necessary both in peace and war. Let us consider the offices performed by the second

group a little more closely. These men do the manual work necessary in religious communities and institutions. Their ministrations, given freely, are absolutely necessary, if the priests are to be free to attend to their special work. Hence, the arguments which prove the need of clergy prove likewise the need of these relatively few, but very important members of religious communities. They also ought, therefore, to be exempted.

"I hope my suggestions will receive the favorable consideration of the committee.

"I would be pleased to have this letter included in the hearings.

Respectfully submitted,
Martin J. Kennedy."

(*Hearings Before the Committee on Military Affairs*, House of Representatives, 76th Congress, 3rd Session, on H. R. 10,132, pp. 628-630.)

Also before the Committee on Military Affairs prominent clergymen of the leading religious organizations of the world testified in behalf of the proposed amendments to the bill providing for complete exemption of ministers of religion.

Among these clergymen protesting to Congress over the omission of the exemption was a Jesuit priest named L. M. O'Neill of St. John's High School, Shreveport, Louisiana. He wrote the Honorable Overton Brooks, Chairman of the Committee, among other things, as follows: "The present bill before Congress on compulsory military training failing as it does to exempt clerics, religious, and seminarians who are engaged the year round in teaching and religious work, is a cause of deep concern and well grounded fear to us all. . . . We only ask now for what has ever been granted to us by our country from its very beginning to the present day inclusively, and that is, that our pastors and missionaries, our seminarians and lay brothers whose lives are devoted wholly and entirely in the field of religion and in the department of education be exempted from military training." (*Hearings Before the Committee on Military Affairs*, House of Representatives, 76th Congress, 3rd Session, on H. R. 10,132, p. 320.)

There is nothing in the Congressional Record or the history of the Act that indicates that the Congress intended to restrict the terms "regular minister of religion" or "ordained minister of religion". Indeed the records of the deliberations of the Congress indicate that it was the intention of the lawmakers to give the same broad definition to such terms as has been given by the whole people of the nation since the days of the first settlers of the country. That construction is a broad and liberal one so as to avoid discrimination.

The "Senate Committee on military affairs worked out an amendment to the Burke-Wadsworth bill deferring the military training of certain groups, ministers and others. The amendment was not satisfactory to all churches. On August 12 I submitted amendments which do have their approval. . . . In presenting this amendment to the Senate I assume that those persons charged with the administration of this Act will give to religion its proper place in a democratic form of government, and to this end will adopt such rules and regulations as will embody the accepted definitions of the terms 'regular or duly ordained ministers of religion' as those terms are meant within this amendment. . . . A regular minister of religion, as used in my amendment, should mean a person who as his customary vocation preaches

and teaches the principles of a religion, of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister." (Senator Johnson of Colorado, 86 Cong. Rec. 10293, 10294. Cf. 86 Cong. Rec. 10095.)

It was the emphatic opinion of at least one senator that it was not necessary that a minister of the gospel should have attended a divinity school as a condition precedent to claiming exemption as a minister of the gospel. Mr. Connally said: "Mr. President, when I was a boy none of the preachers whom I ever heard preach could have taken the benefit of that exemption. Many good old cornfield preachers who gathered their flocks around an open Bible on Sunday morning or gathered their flocks in camp meeting in the summertime, and got more converts during those two weeks than they got all the year, because next year they would get all those converts over again and then some new ones, never saw a divinity school. They never were in a seminary; but they walked with their God out yonder amidst the forests and plains; they read His book at night by kerosene lamp or tallow candle." (86 Cong. Rec. 10589-10590)

The construction and interpretation of the Act placed upon the provisions exempting ministers of religion from training and service by the Director of Selective Service under the 1940 Act ought to show to the members of the Board that there is a Congressional intent even under the present Act to exempt regular and duly ordained ministers whose lives and full time are devoted to the furtherance of the activities and work of their religious organization performing services as ministers at the headquarters of their religious organization.

Under the 1940 Act the Regulations were administered for the President by General Lewis B. Hershey, Director of Selective Service, who, in his first report to the President, dated August 29, 1942, entitled *Selective Service in Peacetime*, Government Printing Office, Washington, 1942, p. 169, among other things, said as follows:

"The great justification for the deferment of ministers of religion and theological students was based on the assumption that the services of these men were a major contribution to the morale of the Nation in the disturbed times of an emergency and during the war when the casualty lists begin to come in, and in the post-war adjustments . . . It is noteworthy that the language used in this section was not merely deferment, but exemption from training and service, although it was specifically added 'not from registration'."

Also the Director has stated that when it is established by undisputed evidence that a registrant is a minister, then "there was no question as to what must be done. They must be exempted from training and service". (*Selective Service in Wartime*, Second Report of the Director of Selective Service, Government Printing Office, 1943, p. 239)

The term "regular minister of religion" as used in the 1940 Act was given a very broad definition by the National Director of the Selective Service System insofar as it applies to most religious organizations and their ministers. "The principle was extended to persons who were not, in any strict sense, ministers or priests in any sacerdotal sense. It included Christian Brothers, who are religious, who live in communities apart from the world and devote themselves exclusively to religious teaching; Lutheran lay teachers, who also dedicate themselves to teaching, including religion; to the Jehovah's Witnesses, who sell their religious books, and thus extend the Word. It includes lay brothers in Catholic religious orders, and many other groups who dedicate their

lives to the spread of their religion." (*Selective Service in Wartime*, Second Report of the Director of Selective Service 1941-42, Government Printing Office, 1943, p. 241)

"But to be a 'regular minister' of religion he must have dedicated himself to his task to the extent that his time and energies are devoted to it to the substantial exclusion of other activities and interests." (*Selective Service in Wartime*, p. 241)

The Director of Selective Service rendered many opinions for the guidance of local boards so as to protect the rights of dissentient groups, unusual groups, and avoid unnecessary misunderstandings and controversies between local boards and registrants who are entitled to exemption under Section 5 (d) of the Act. The Director's Notes to Part 622 of the Selective Service Regulations disclose a few of these opinions.

Note 21 [MSD I-146] relates to commissioned officers of the Salvation Army and those receiving training in the theological schools of the Salvation Army; note 23 [NHO 16] relates to Readers of Church of Christ, Scientist. Note 24 [NHO 14] relates to Jehovah's witnesses. This note is substantially the same as Opinion No. 14, National Headquarters, below. Note 25 [NHO 19] relates to Cantors of Jewish Congregations; note 26 [NHO 20] relates to the commissioned officers of the Volunteers of America; note 27 [NHO 18, 18-A] relates to the Christian day-school teachers of the Evangelical Lutheran Synod of Missouri, Ohio and other states; note 28 [NHO 23] relates to the High Priests in the Melchizedek Priesthood of the Church of Jesus Christ of Latter Day Saints (Mormons).

The liberality of the Selective Service System in insuring complete exemption for ministers of religious organizations was demonstrated in the interpretation and application of the regulations to "Lay Brothers" of the Catholic Church. These men are not priests, nor in line for the priesthood, of the Roman Catholic Hierarchy, but do menial work in the religious institutions of the Hierarchy. They do not conduct religious services of any kind and many are declared to be uneducated and "unable to attain to the degree of learning requisite for Holy orders" but "able to contribute by their toil" and "able to perform domestic services or to follow agricultural pursuits". (*The Catholic Encyclopedia* [1907, Robert Appleton & Co., N.Y.], Vol. 9, p. 93)

Opinion No. 2, National Headquarters, Selective Service System, subject: "Classification—Exemption of Catholic Lay Brothers on Account of Being Regular Ministers of Religion" declares that these men, numbering countless thousands in the United States, shall be completely exempt and shall be classified as regular ministers of religion in Class IV-D.

These opinions of the Director demonstrated the desire on the part of the Selective Service System to broaden the view of the local boards and liberalize the attitude toward total exemption of ministers as far as possible so as to give full effect to the intent of Congress in providing for the exemption.

The specific opinion of General Hershey, issued by the National Headquarters of the Selective Service System, relating to the classification of Jehovah's witnesses and their status as exempt ministers under the 1940 Act appears in Volume III and is known as Opinion No. 14, dated June 12, 1941. It was again issued on November 2, 1942, when it was amended to make certain necessary changes. Thereafter Opinion No. 14 of General Hershey was incorporated into State Director Advice 213-B, which reads as follows:

"SUBJECT: THE MINISTERIAL STATUS OF CERTAIN OF THE OFFICIALS OF SPECIFIED CHURCHES, RELIGIOUS SECTS, OR RELIGIOUS ORGANIZATIONS

* * *

"PART I

"1. Because of the unusual nature of the organization and work of certain religious groups, National Headquarters has been called upon, from time to time, to make predeterminations relating to the question of whether a particular group comes within the purview of the Regulations as a recognized church, religious sect, or religious organization.

"2. The issuance of a complete list of recognized churches, religious sects, or religious organizations, is not contemplated by this Headquarters. Therefore, the fact that a particular organization is not mentioned in this State Director Advice should not be taken to mean that it is not a recognized church, religious sect, or religious organization.

"3. Information will be furnished upon request of any agency of the Selective Service System as to whether a predetermination has been made, regarding any particular organization. If no predetermination has been made, a study will be conducted and a predetermination made.

"PART II

"1. Statements of opinion have been issued occasionally regarding the nature and work of those offices or positions of leadership in a recognized church, religious sect, or religious organization which are generally recognized to be ministerial in nature and function.

"2. In Part IV of this State Director Advice is listed information relating to certain offices of ministerial function in various organizations. Each organization referred to has been predetermined by National Headquarters to be a recognized church, religious sect, or religious organization within the purview of the Act and the Regulations. The offices of ministerial function of such groups as indicated have been predetermined by National Headquarters to come within the meaning of the Act and the Regulations as offices of regular or duly ordained ministers of religion.

"3. The following are the recognized churches, religious sects, or religious organizations concerning which statements of opinion are issued in Part IV of this State Director Advice.

"(a) Salvation Army.
"(b) Holy Roman Catholic Church—Lay Brothers.
"(c) Jehovah's Witnesses.
"(d) Church of Christ, Scientist.
"(e) Evangelical Lutheran Synod of Missouri, Ohio, and Other States—Christian Day School Teachers.
"(f) Evangelical Lutheran Joint Synod of Wisconsin and Other States—Christian Day School Teachers.
"(g) Jewish Congregations—Cantors.
"(h) Volunteers of America.
"(i) Church of Jesus Christ of Latter Day Saints (Mormon).
"(j) Seventh-day Adventist Church—Colporteurs and Day School Teachers.

"PART III

"1. Whether a registrant who qualifies under the statements hereinbefore made, is actually engaged in the regular discharge of his duties as a regular or duly ordained minister of religion must be determined in each individual case by the local board or agency of appeal.

"2. It is the opinion of National Headquarters that the question of the regular discharge of his duties as a minister is a most important factor in determining whether a registrant should be classified in Class IV-D in accordance with the provisions of paragraphs (b) and (c) of section 622.44 of the Regulations.

"3. The historic nature of the ministerial function of a registrant's own religious organization must be taken into consideration in each individual case. In some churches both practice and necessity require the minister to support himself, either partially or wholly, by secular work.

"4. In view of the fact that the exemption of regular or duly ordained ministers of religion is a statutory provision of the Act, no particular form of document is specified for the presentation of information concerning such status.

"PART IV

"1. SALVATION ARMY

"Commissioned officers of the Salvation Army are consecrated to their religious beliefs, and occupy with respect to their organization the exalted position held by other ministers in more familiar denominations. The commission granted any commissioned officer of the Salvation Army is an ordination. By reason of the position they occupy and their ordination in such position, registrants who are commissioned officers of the Salvation Army, as they are now constituted, may be considered duly ordained ministers of religion.

"2. HOLY ROMAN CATHOLIC CHURCH—LAY BROTHERS

"It appears that Catholic Brothers have made profession of the vows required of them by their respective religious Congregations, such as poverty, chastity, obedience, and are said to devote all of their time to their Congregations. Moreover, when the Selective Training and Service Act was being discussed in Congress, it was made clear that it was intended that the Brothers were included in the purview of the statutory exemption from training and service of regular ministers of religion. It is believed that they are and should be considered 'regular ministers of religion.'

"It has been officially certified to National Headquarters by an official of the Church that:

" 'I beg to certify that according to the laws of the Church, the term "Brother" or "Lay Brother" signifies a regular minister of religion.

" ' "Lay Brothers" in all the canonically approved societies, orders and congregations are religious ministers in the fullest sense of that term as defined in the Code of Canon Law (Canon 488,70). They are deliberately received into an ecclesiastically approved religious order by the profession of the vows of solemn promises of religion; they, as real ministers of religion, may cooperate in the sacred ministry of the priests and the salvation of souls, by the performance of the special

tasks assigned to them in schools, hospitals, religious institutes, houses of study or elsewhere.

" 'The "Lay Brothers", so-called, are not only bound to the obligations of the clerical state (Cfr. Canons 592 and 679) but they also enjoy the very same privileges as clerics (Cfr. 614 and 680).'

"3. JEHOVAH'S WITNESSES

"Whether an official of the Jehovah's Witnesses group stands in the same relationship to this group as a regular or duly ordained minister in other religions must be determined in each individual case based upon whether he devotes his life in the furtherance of the beliefs of Jehovah's Witnesses, whether he performs functions which are normally performed by regular or duly ordained ministers of other religions, and finally, whether he is regarded by other Jehovah's Witnesses in the same manner in which regular or duly ordained ministers of other religions are ordinarily regarded.

"Experience has shown that due to the fact that a large proportion of the members of any Jehovah's Witnesses unit claim to be ministers, special care must be used in applying the above-mentioned tests. Information presented in the case of a registrant who claims to be a minister of the Jehovah's Witnesses group must show facts regarding both his ministerial position and his ministerial activities which clearly justify his exemption as a minister. Certificates, affidavits, or statements of opinion are not necessarily conclusive proof of a ministerial status.

"Members of the Bethel Family are those members of Jehovah's Witnesses who devote their full time and effort to the manufacture and production of books, pamphlets, and supplies for the religious benefit of Jehovah's Witnesses, the purpose of which is to present the beliefs of Jehovah's Witnesses and to convert others. For their religious services, the members of this group are said to receive their subsistence and lodging and in addition a very modest monthly allowance. This group of individuals consists of the office and factory workers at 117 Adams Street, Brooklyn, New York, and workers in the executive offices at 124 Columbia Heights, Brooklyn, New York, and at the Farms.

"Pioneers of Jehovah's Witnesses are those members of Jehovah's Witnesses who devote all or substantially all of their time to the dissemination of the tenets and beliefs of Jehovah's Witnesses.

"A certified official list of members of the Bethel Family and Pioneers has been transmitted to the State Directors of Selective Service by National Headquarters as an attachment to State Director Advice No. 213-C. The members of the Bethel Family and Pioneers whose names appear upon such certified official list were thought at the time the list was issued to come within the purview of section 5 (d) of the Selective Training and Service Act of 1940, as amended, and if they have continued in the same status, they should be classified in Class IV-D. The status of members of the Bethel Family and Pioneers whose names do not appear upon such certified official list shall be determined as herein provided.

"Other members of Jehovah's Witnesses, known by the various names of servant to the brethren, company servant, assistant company servant, back-call servant, territory servant, advertising servant, accounts servant, stock servant, and other servants, devote their time

and effort in varying degrees to the dissemination of the tenets and beliefs of Jehovah's Witnesses. Often the servants to the brethren and the company servants are found to be devoting their lives to a work of ministry to the substantial exclusion of secular employment. In such cases, they may be considered for classification into Class IV-D as ministers of religion.

"4. CHURCH OF CHRIST, SCIENTIST

"Members of the Church of Christ, Scientist, who are Christian Science practitioners whose names appear in the Christian Science Journal as being recognized or certified practitioners may be considered regular ministers of religion.

"First and Second Readers, Christian Science lecturers and Christian Science wartime ministers and Readers of the Church of Christ, Scientist, while serving in those capacities, and actually holding such offices, during their designated terms, may be considered regular ministers of religion.

"5. EVANGELICAL LUTHERAN SYNOD OF MISSOURI, OHIO AND OTHER STATES—CHRISTIAN DAY SCHOOL TEACHERS

"Teachers in the Christian day schools of the Evangelical Lutheran Synod of Missouri, Ohio and Other States may be considered regular ministers of religion if they have devoted their lives to the furtherance of the religious beliefs of the church, if they have been called by a congregation and assigned to teach in a parochial school in the same way the pastor of the congregation is called and if they are regarded by other members of the church in the same manner in which regular ministers are ordinarily regarded.

"Regarding such a teacher, it has been stated to this Headquarters by the church that:

" 'He is called by the Christian congregation in the same way as the pastor is called, and all that is said in Holy Scriptures of the bishop (1 Tim. 3) applies to the regular teacher of the Lutheran day school in his particular part of the work. A teacher of a Lutheran school is called "for life" by the congregation, and he will not accept the call of another congregation except after due counsel with the congregation which he serves at the time of receiving the new call.

" 'The office of parochial school teacher was established after the Reformation. That of the regular Lutheran day-school teacher is part of the office of the holy ministry, inasmuch as he "labours in the Word and doctrine." '

"6. EVANGELICAL LUTHERAN JOINT SYNOD OF WISCONSIN AND OTHER STATES—CHRISTIAN DAY SCHOOL TEACHERS

"Teachers in the Christian Day Schools of the Evangelical Lutheran Joint Synod of Wisconsin and Other States should be considered in exactly the same manner as is provided in such cases with regard to the Evangelical Lutheran Synod of Missouri, Ohio and Other States.

"7. JEWISH CONGREGATIONS—CANTORS

"In an exceptional case, a Jewish congregation may have no ordained rabbi, but instead will accept as rabbi a person who lacks

ordination. The person so engaged to act in the capacity of rabbi may be a cantor. In such an instance, the cantor performs virtually all of the functions normally performed by a rabbi, including the giving of advice upon specific questions of Jewish law, the preaching of sermons, the teaching and expounding of the law; and the congregation regards him as their spiritual leader. In such an exceptional case, the cantor may be considered a regular minister of religion.

"8. VOLUNTEERS OF AMERICA

"The commissioned officers of the Volunteers of America are duly ordained and commissioned after due preparation and a satisfactory examination. It also appears that these commissioned officers customarily preach and teach the principles of religion in accordance with the prescribed form of worship recognized by the organization. Therefore, they may be considered regular or duly ordained ministers of religion.

"9. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (MORMON)

"Those registrants who have been ordained in the Melchizedek Priesthood of the Church of Jesus Christ of Latter Day Saints (Mormon) and who are serving in any of the capacities hereinafter listed, may be considered regular ministers of religion within the meaning of the Act and the Regulations, so long as they hold any of these positions:

"(a) The first presidency of three men.
"(b) The presiding patriarch or quorum of twelve apostles.
"(c) The first seven presidents of seventies.
"(d) The presiding bishopric of the church of three men.
"(e) The president and two counselors of each stake.
"(f) The bishop and two counselors of each ward.
"(g) The president and two counselors of each independent branch.
"(h) The president of each dependent branch.
"(i) The president of each mission.
"(j) Those men who have been ordained as elders of seventies and who hold formal certificates as missionaries.

"10. SEVENTH-DAY ADVENTIST CHURCH COLPORTEURS AND DAY SCHOOL TEACHERS

"Members of this church consider their colporteur evangelistic work to be of highest importance in the propagation of the faith. They look upon the men who do this work as engaged in a vocation comparable to the gospel ministry, even though they are not ordained. When a registrant is found to be actually engaged in a bona fide manner in full-time work of this nature and files evidence of possession of a colporteur's license or a colporteur's credentials, he may be considered a regular minister of religion.

"The teachers in the day schools of this church are looked upon by members of the denomination as engaged in sacred work comparable to that of the gospel ministry. They are the religious instructors of the children and youth of the church, and even though they

are not ordained, they have given their lives and are devoting their time to the religious activities of the church. Such teachers may be considered regular ministers of religion.

"Lewis B. Hershey
DIRECTOR"

Full-Time Ministers in the Field

In addition to the full-time ministers that are devoting their lives to the furtherance of the preaching of the gospel of God's kingdom as ministers at the headquarters of the Society there are also those of Jehovah's witnesses whose full time is also devoted in the furtherance of the preaching activity of Jehovah's witnesses. These also are ordained ministers. Their full time and life are devoted to the furtherance of the preaching activity of Jehovah's witnesses. These full-time ministers are known as pioneer publishers, special pioneer publishers, foreign missionaries, circuit servants and district servants.

The pioneers are full-time ministers engaged in door-to-door missionary work by means of the distribution of Bibles and Bible literature, the holding of home Bible studies and the performance of public street preaching by the distribution of magazines and leaflets. These pioneer ministers view this work as their vocation. They devote at least one hundred hours per month, or a total of twelve hundred hours per year in preaching activity exclusive of time spent in studying, attending congregational meetings and performing various incidental services related to their ministry. They may or may not engage in part-time secular work to support themselves and to provide necessities of life. Whatever secular work they do perform is not as a vocation but it constitutes an avocation.

Special pioneers are also full-time ministers. They are selected from among the pioneers. Special pioneers are required to devote a minimum of one hundred forty hours per month, or sixteen hundred hours per year to the preaching of the gospel by means of the distribution of literature upon the public streets, through distribution of the magazines and in the holding of home Bible studies and the making of revisits upon people of good will.

The full-time pioneer, either special pioneer or general pioneer, usually works in isolated territory where there is no established congregation. Others are associated with congregations of Jehovah's witnesses in their preaching activity.

The foreign missionaries are persons who have been graduated from the Watchtower Bible School of Gilead. Their full time is devoted to preaching the gospel in foreign countries.

The circuit servants are full-time, ordained ministers. They perform duties in behalf of the Society very similar to those performed by the bishop of an orthodox church. The circuit servants are supervising ministers commanded by the Society to exercise visitorial powers. They visit congregations within a limited area assigned to them, known as a circuit. They make periodic visits to the congregations within the area or circuit, traveling from congregation to congregation, spending one week with each congregation. They have a schedule to follow with each congregation that requires them to check on the preaching activity carried on by the congregation, deliver sermons and give instructions to the congregation and also assist the ministers in the congregation in the performance of their missionary evangelistic duty in the congregation.

The district servants are also full-time, ordained ministers performing duties on behalf of the Society in a supervisory capacity. He serves an area composed of several circuits, visiting them one after another. Twice each year all of the ministers in the circuit assemble for a three-day convention known as a circuit assembly. Here the district servant acts as chairman and principal speaker, delivering sermons and counseling all of the ministers, including the circuit servant, so as to assist them in the performance of their ministry. Incidental to his service to the circuit assemblies he also makes visits to congregations in the same manner as does the circuit servant for the purpose of assisting the ministers of the congregation in the performance of their duties as missionary evangelists. Both the circuit servants and the district servants engage in door-to-door and street missionary work at such times when they are not occupied with other duties.

There is no question that the full-time pioneers, special pioneers, foreign missionaries, circuit servants and district servants are regular and duly ordained ministers of religion as defined in Section 6 (g) and Section 16 (g) (1) (2) (3) of the Act. They do not irregularly or incidentally teach and preach the doctrines and principles of Jehovah's witnesses. They regularly, as a vocation, teach and preach the principles of religion and administer the ordinances of public worship as embodied in the creed or principles of the church known as Jehovah's witnesses. Their preaching work is their customary vocation.

The incidental performance of secular work as an avocation by some of these full-time ministers does not disqualify them to be classified as regular ministers of religion. The term "regular minister" is used in the Regulations. The term "regular minister" has been defined to be one who regularly teaches and preaches. It has been held that the fact that a minister of religion may be performing secular work during the week to support himself and rendering his ministerial services gratuitously did not prevent him from being a regular minister of religion, because he preached regularly each week, and was therefore a regular minister of religion. Ex parte *Cain*, 39 Ala. 440-441.

It is to be observed that the Regulations use the word "customarily". Customary, the word from which it is derived, is synonymous with "usual" and "habitual". It does not mean continuously. It is not synonymous with continuously, uninterruptedly, daily, hourly, or momentarily. *The Century Dictionary* defines "customarily" to mean "in a customary manner; commonly; habitually". Therefore the use of the words "regular" and "customarily" implies that Congress intended to give the term "minister of religion" the same broad scope which it has included throughout the history of freedom of worship in this country.

From time immemorial the work of a preacher or minister has not been confined to speaking from a pulpit to a congregation that is capable of supporting the minister financially so as to make it unnecessary for him to depend on other sources for support and maintenance. In fact, ministers more often than not, especially in the rural sections, have been forced to work on farms, in grocery stores and at other secular work during six days of the week in order to support themselves and their families, so that they might regularly and customarily preach on Sunday. It is a part of the custom of this country that preaching is done regularly when done on Sunday. As long as a minister

preaches regularly on Sunday and at nighttime during the week he is regularly and customarily preaching. If he regularly and customarily preaches during the week, he is a regular minister of religion under the Act and Regulations. The source of his income is wholly immaterial. Whether his congregation is able to provide him with an income sufficient to maintain him is immaterial. Whether he is fortunate in being rich and able to maintain himself from stocks, bonds, securities and property investments is not material. Whether the regular minister, like most ministers, is not financially independent but has to depend on his labors for his support, is also immaterial. Time spent in attending to investments from which an income is derived, or to labor in secular callings, is also immaterial in determining whether or not the minister regularly and customarily teaches and preaches.

When the pioneers came to this country and settled it the ministers came along with them, working during the week and preaching regularly on Sunday. When the early settlers pushed into the Midwest and the West and pioneered through to the Pacific Coast ministers of religion went along, accompanying them, working in the woods and fields and following various secular occupations on six days of each week and regularly and customarily preaching on Sundays. Indeed, even today, in the small towns throughout the nation and in the rural areas are to be found thousands of ministers of various religious denominations who work at secular work during the week to support themselves and who on Sunday regularly and customarily preach as do clergymen of the more wealthy congregations in the cities. True, there are scores of thousands more in the towns and cities, especially the large cities, who have been called by congregations sufficiently large and wealthy to provide them with an income that relieves them of the need to labor during the week. Surely Congress did not mean to say, when it wrote the exemption into the Act, that it was to be extended only to such clergymen of the wealthy congregations able to support their respective ministers so that they would not be required to work at any secular avocation.

It should be remembered that Christ Jesus' apostle Paul, the foremost spokesman of the early Christian church, worked regularly at making tents. He chose to support himself by secular work rather than to be a charge and burden upon the poor people to whom he ministered publicly and from house to house.

To construe the Act and Regulations so as to exclude ministers who are forced, or who, as Paul, deliberately choose, to resort to secular work to sustain themselves in the ministry and thus to enable themselves to minister gratuitously to the poor and needy and themselves "be dependent on nobody", is to impute to Congress the intention of limiting the benefit of the exemption to the big-town and city ministers. So to construe the Act results in the inequality which Congress ever seeks to avoid. So to construe brings only the un-American result of excluding from 'equal protection of the law' those ministers of small towns and rural communities of the country who are either unable or unwilling to enjoy wealth that enables big-town and city ministers to escape the need to labor to support themselves and their dependents. Surely Congress intended to provide the benefits of exemption for ministers who chose to answer the call of opulent congregations in the metropolis and in small-town parishes equally. Seen in true prospective, the Act's generous provision for exemption of ministers within the Congressional intent contrasts strikingly with an interpretation which would deprive such ministers of the exemption.

In absence of express provision in the Act and Regulations excluding from the shield of exemption ministers regularly or customarily preaching who support themselves by their own labor at secular jobs, it must be assumed that Congress intended to include those as well as the ministers able to enjoy benefits of their parishioners' wealth so as to excuse them from need to toil for their own livelihood during the week. Even the National Headquarters of the Selective Service System recognized that ministers of many denominations are required to perform secular work in order to sustain themselves while engaged in the ministry. State Director Advice 213-B, Part III, par. 3.

There are a large number of clergymen and ministers of Protestant and Jewish denominations who depend for their support upon secular work. In the Northern Baptist Convention 20 per cent of all clergymen in rural sections "help earn their keep by work not connected with their churches". (Hartshorne and Froyd, *Theological Education in the Northern Baptist Convention* (1945), Judson Press, Philadelphia, p. 72. In the Southern Baptist Convention the percentage is much higher.

Twenty-four per cent of all Protestant clergymen in the United States in 1939 received less than $600 annual salary from their respective churches, of which 14 per cent received less than $99 annually. "There is nothing to indicate that those in the lower brackets also had other occupations, although it is a safe guess that many of them did." (Landis, *Yearbook of American Churches* 1945, Federal Council of Churches of Christ in America, Sowers Printing Co., Lebanon, Pa., p. 155; see also United States Bureau of Census, Series P-16, No. 8, 16th Census.)

It is well known that the majority of the ministers of the Society of Friends (Quakers), Church of Jesus Christ of Latter-day Saints (Mormons), Mennonites, and many others are dependent entirely upon secular work for their support, no salary being paid to their ministers, as a general rule.

Pioneer ministers of Jehovah's witnesses who support themselves by part-time secular work actually devote as much time to preaching and the duties of the ministry as do the orthodox clergymen who have congregations wealthy enough to support them without performance of secular work. They spend many hours monthly in house-to-house missionary work, and preaching before the congregation, studies, special meetings and performance of congregational duties. The orthodox church-sustained clergy do not spend any more time in their preaching activities yet they do not sustain themselves by secular work as do these ministers.

Throughout history of religious organizations ministers have been distinguished from church-sustained clergy. Even the self-supporting ministers contributed more than the orthodox clergy to the spread of religion along with the pioneers in the days of the expansion to the West.

". . . about the auniversary meetings, . . . a brief, summary view. . . . About two hundred of God's ministers were in attendance, all told —for *all* are ministers, servants of God's Word; in which all are recognized as *priests*—of the royal priesthood . . . The general sentiment . . . was, that they would be all the more diligent hereafter to pass the pleasant bread of truth to the hungering sheep of the Lord." *Watch Tower*, April 1890, Vol. XI, No. 5, p. 1.

"The church has always been more successful in winning kingdoms for her Christ, when she has adopted just this lay preaching method.

. . . The whole church a royal priesthood, and so the whole church a preaching church, that is the New Testament ideal." *Lay Preaching* (Secretary's Annual Report), Hoyt, American Baptist Publication Society, 1869, New York, p. 21.

The only way the preaching job could be successfully done in the pioneer days was said to be "by the preaching and teaching, under Episcopal direction, by laymen deriving their support from their own secular labors". *The Missouri Valley and Lay Preaching*, Wharton, 1859, New York, p. 18.

"Although made the special work of certain representative disciples, it is, in fact, enjoined upon the Church as a whole, and upon its members in particular, 'as of the ability which God giveth' (1 Pet. 4 : 10, 11) . . . From these scriptural examples, it is just to infer that lay preaching, in the various forms of teaching, evangelizing, and prophesying, had from the first a double object: 1, to do good to all men; and, 2, to develop and prove the gifts of those who from time to time were called from the ranks of the laity to the more public ministry of the Word. Such, doubtless, continued to be the practice of the Church during the early centuries, and it was only by degrees that it became modified under the hierarchial spirit which developed at a later period. . . . In the Reformed churches there was a general breaking away from the trammels of ecclesiasticism, together with an energy of purpose which did not scruple to employ any agencies at its command for the dissemination of truth. . . . The first formal and greatly effective organization of lay preaching as a system, and as a recognized branch of Church effort, took place under John Wesley at an early period of that great religious movement known as the revival of the 18th century." *Cyclopedia of Biblical, Theological, and Ecclesiastical Literature*, McClintock and Strong, New York, Harper & Bros., 1880, Vol. 5, pp. 296, 297.

The English Court of Appeal held that the conscription law of that country, passed during the first world war, should be given an interpretation so as to include a part-time minister of unorthodox Strict Baptist Church. (*Offord* v. *Hiscock*, 86 L. J. K. B. 941) In that case the person held to be a minister was a solicitor's clerk during six days of the week. He was invited to preach on one occasion and it appeared that he was satisfactory, so he was engaged as the minister. In that case Viscount Reading said: "I have come to the conclusion that there is an absence of any evidence from which the Justices could draw the conclusion that he had not brought himself within the exception to the statute enforcing military service. In my view it is clear that he had determined to devote himself to the ministry."

Under the Canadian National Selective Service Mobilization Regulations the Supreme Court of Saskatchewan held that a registrant was entitled to exemption from all training and service as a minister of religion. (*Bien* v. *Cooke* (1944) 1 W. W. R. 237) There the minister spent, in farming, six days of each week. All that was required was that he satisfy the general secretary, who was a railroad engineer, that he believed the New Testament, and that he met the necessary moral requirements.

The United States Court of Appeals for the Second Circuit, in *Trainin* v. *Cain*, 144 F. 2d 944, said that the regular performance of secular employment was not incompatible with the claim for exemption as a regular minister of religion: "While the two positions are not

mutually exclusive, and a validly draft-exempt minister of religion could still maintain a legal practice on the side, the existence of the latter can be taken into consideration in determining whether registrant is in fact a regularly practicing minister."

The fact that Jehovah's witnesses may perform secular work in no way interferes with or prevents them from performing their duties as ministers of religion. The source of financial revenue of persons excused by the Act from the performance of training and service is wholly irrelevant and immaterial to the exemption and deferment granted by Congress.

The fact that a judge of a court may reside on a farm or ranch and/or operate it during his term of office in no way affects the statutory deferment as long as he fills the office of a judge. The fact that a governor of a state may own and operate some commercial business in no way weakens his claim for deferment under the Act. That a wealthy clergyman may devote all of his spare time to the caring for investments in securities, real estate and other enterprises in no way deprives him of his right to claim exemption under the Act as long as he is recognized by his organization as a minister of religion and teaches and preaches regularly the doctrines and principles of a recognized religious organization.

The mere fact that a poor preacher of a financially weak congregation is required to perform secular work during the week to support himself in the ministry does not bar him from claiming the exemption as a minister of religion as long as he regularly and customarily teaches and preaches the doctrines and principles of a recognized religious organization. In determining whether or not there is basis in fact for a draft board determination denying a claim for exemption or deferment under the Act such action cannot be supported solely by a finding that such person had other activities on the side that would not, within themselves, entitle such person to exemption or deferment. If the facts establish that such person comes within the exemption or deferment granted under the Act, incidental activities not entitling him to exemption or deferment are wholly irrelevant and immaterial.

The pages of history abound with proof that even ministers of orthodox denominations perform secular work during the week in order to sustain themselves in their ministry. Today some denominations have no paid clergy at all. Every minister in some denominations is required to perform secular work, although he may regularly and customarily teach and preach the doctrines and principles of his church as a minister. "Upon this point a page of history is worth a volume of logic."—Mr. Justice Holmes, *N. Y. Trust Company* v. *Eisner*, 256 U. S. 345, 349.

The performance of secular work or dependence upon income from activity other than the ministry is not mentioned in the Statute or Regulations, as far as the minister is concerned. Also nothing is said in the Act or Regulations about the amount of time that a regular minister should devote to his work. Nothing is said in the Act which would require that judges have no extra-judicial activity. Nothing is said in the Act that judges are precluded from earning money from sources other than their positions on the bench. A construction placed upon the Act which denies a minister the right to exemption because he performs secular work in addition to regular performance of duties as a minister would, by force of the same reason, also require that a judge be denied the exemption because he did some extra-judicial work in addition to his duties as a judge.

The liberal construction placed upon the Act so as not to confine exemption solely to the orthodox clergy is demonstrated by the fact that officers of the Salvation Army, Lay Brothers of the Catholic Church, the practitioners, readers and lecturers of Christian Science in the Church of Christ Scientist, cantors in the Jewish congregation, counselors of the Mormon Church, and colporteurs of the Seventh-Day Adventist Church were all declared by General Hershey to be exempt under the 1940 Act.

A narrow, restrictive and orthodox determination would also exclude entirely those persons above mentioned who were included within the exemption by the Director. A construction of the Act so as to exclude Jehovah's witnesses discriminates against them without cause, justice or reason.

Since neither the Act nor the Regulations exclude dissentient groups, they cannot be construed to exclude unorthodox ministers. It must be assumed that the Act and Regulations were intended to embrace within the exemption the ministers of all denominations, whether popular or unpopular, orthodox or unorthodox. Any other view would require us to impute to Congress the intention of discriminating between religious denominations and ministers according to nebulous or arbitrary standards, with resultant inequitable, crotchety application of the statute as attempted in the case of some registrants.

A realistic approach to the construction of an act providing for benefits to religious organizations requires that boards make "no distinction between one religion and another. . . . Neither does the court, in this respect, make any distinction between one sect and another". (Sir John Romilly in *Thornton* v. *Howe*, 31 Beavin 14) The theory of treating all religious organizations on the same basis before the law is well stated in *Watson* v. *Jones*, 80 U. S. (13 Wall.) 679, 728, thus: "The full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect." It must be assumed that Congress, when it provided for ministers of religion to be exempt from all training and service, intended to adopt the generous policy above expressed so as to extend to all ministers of all religious organizations.

It has been judicially declared that were "the administration of the great variety of religious charities with which our country so happily abounds, to depend upon the opinion of the judges, who from time to time succeed each other in the administration of justice, upon the question whether the doctrines intended to be upheld and inculcated by such charities, were consonant to the doctrines of the Bible; we should be entirely at sea, without helm or compass, in this land of unlimited religious toleration." (*Knistern* v. *Lutheran Churches*, 1 Sandf. Ch. 439, 507 (N.Y.)) All religions, however orthodox or heterodox, Christian or pagan, Protestant or Catholic, stand equal before the law which regards "the pagan and the Mormon, the Brahmin and the Jew, the Swedenborgian and the Buddhist, the Catholic and the Quakers as all possessing equal rights". (*Donahue* v. *Richards*, 38 Me. 379, 409. Cf. *People* v. *Board of Education*, 245 Ill. 334, 349; *Grimes* v. *Harmon*, 35 Ind. 198, 211) Protection is therefore afforded not only "to the different denominations of the Christian religion, but is due to every religious body, organization or society whose members are accustomed to come together for the purpose of worshiping the

Supreme Being". (*State* ex. rel. *Freeman* v. *Scheve*, 65 Neb. 853, 879, 93 N. W. 169) It is now clear that the American legislative, executive and judicial policy concerning religious organizations, beliefs and practices is one of masterly inactivity, of hands off, of fair play and no favors. (*People* v. *Steele*, 2 Bar. 397) "So far as religion is concerned the laissez faire theory of government has been given the widest possible scope."—*State* ex rel. *Freeman* v. *Scheve*, 65 Neb. 853, 878, 93 N. W. 169.

Neither Shakers nor Universalists will be discriminated against in distributing the avails of land granted by Congress in 1778 for "religious purposes". (*State* v. *Trustees of Township*, 2 Ohio 108; *State* v. *Trustees*, Wright 506 (Ohio)) Whatever the personal views of a judge may be concerning the principles and ceremonies of the Shaker society, whether to his mind their practices smack of fanaticism or not, he has no right to act upon such individual opinion in administering justice. (*People* v. *Pillow*, 3 N. Y. Super. Ct. (1 Sandf.) 672, 678; *Lawrence* v. *Fletcher*, 49 Mass. 153; *Cass* v. *Wilhite*, 32 Ky. (2 Dana) 170) In the field of religious charities and uses the doctrine of superstitious uses was eliminated from American jurisprudence as opposed to the spirit of democratic institutions because it gave preference to certain religions and discriminated against others. It was held that the doctrine was contrary to "the spirit of religious toleration which has always prevailed in this country" and could never gain a foothold here so long as the courts were forbidden to decide that any particular religion is the true religion. (*Harrison* v. *Brophy*, 59 Kans. 1, 5, 51 P. 885; cf. *Methodist Church* v. *Remington*, 1 Watts 219, 225; 26 Am. Dec. 61 (Pa.); *Andrew* v. *New York Bible and Prayer Book Society*, 6 N. Y. Super. Ct. (4 Sandf.) 156, 181) Thus in the field of various religions as long as a particular method of preaching does not conflict with the law of the rights of others no matter how exotic or curious it may be in the opinion of others it is fully protected by the law.—*Waite* v. *Merrill*, 4 Me. (4 Greenl.) 102, 16 Am. Dec. 238, 245.

"History teaches us that there have been but few infringements of personal liberty by the state which have not been justified, as they are here, in the name of righteousness and the public good, and few which have not been directed, as they are now, at politically helpless minorities."—*Minersville* v. *Gobitis*, 310 U. S. 586, 604.

There have been an extraordinarily large number of cases wherein the 1940 Act has been construed and applied. The best opinion dealing with the ministerial exemption is that of *United States* ex rel. *Hull* v. *Stalter*, 151 F. 2d 633 (C. A. 7). A printed copy of that decision is attached hereto and marked as Appendix A.

Presiding Ministers of Congregations and Their Assistants

Divisions of Territory

The entire United States as a missionary field is divided into districts. A district includes several states. Presiding over the district is the district servant. He is a full-time minister. Each district is divided into several circuits. Each circuit is presided over by the circuit servant. He is a full-time minister also. Each circuit is divided into several territories. A territory is assigned either to a congregation or to pioneers. The congregation of ministers or the pioneers carry on missionary work in the territory assigned to them. The congregation is known as a company, except in cities where there are more than one company. In that event each congregation is known as a unit,

which is assigned a portion of the territory of the city and all of the units within the city make up the company.

Presiding Ministers and Assistants

Over each congregation of ministers (company or unit) are a presiding minister, known as a company servant, and his assistants, known as assistant company servant, Bible study servant, territory servant, advertising servant, accounts servant, stock servant, school servant and *Watchtower* study conductor. Each of these servants may or may not be a full-time minister. They may be ministers who are part-time publishers who preach regularly and customarily each week from door to door and on the streets. They preach regularly on Sundays, Saturdays, holidays, and at nighttime during the week. The company servant and his assistants stand in relationship to each congregation in the same way as do the clergy of the orthodox religions to their congregations. They deliver regularly sermons and discourses at the regular meetings of the congregation, several times weekly. In addition to the delivery of these sermons, such servants have specially assigned duties of a supervisory nature over the other ministers of the congregation. They have part in directing the door-to-door ministry carried on by the ministers known as company publishers (part-time ministers) who are regularly and customarily engaged in teaching and preaching the doctrines and principles of Jehovah's witnesses.

The company servant is appointed to serve as overseer of all features of the company ministry. He is familiar with the duties, work and records of all the other servants, his assistants. In his capacity as presiding minister he will take the lead in assisting and training other ministers in field ministry. He will arrange for congregational meetings and report monthly upon the activity accomplished by the missionaries in the field.

The assistant company servant is appointed to take the oversight of the missionary activity of the congregation in the absence of the company servant. He co-operates closely with the company servant in all matters and keeps the record of the preaching activity of the entire congregation.

The Bible study servant is the assistant presiding minister who oversees the revisits and Bible studies with people of good will in their homes, including the instruction of the ministers in the field in these features of preaching and teaching.

The territory servant, in addition to his regular ministry in the field, looks after the proper coverage of the entire division of territory assigned to the congregation.

The advertising servant is the assistant presiding minister appointed to especially oversee the public street ministry of the congregation of Jehovah's witnesses and to assist the ministers to keep the Kingdom message prominently before the public, through the distribution of invitations to public Bible sermons, distribution of the magazines published by the Society, and other forms of advertising publicly and from house to house.

The accounts servant, besides preaching and teaching regularly as a missionary, has charge of the financial accounts and records of the congregation. In addition he is responsible to assist in the training of ministers in the field ministry.

The stock servant is the assistant presiding minister appointed to see that all ministers are supplied with Bibles and Bible literature for

their missionary work in the field and to train the ministers in their use.

The school servant is appointed to preside over the ministry school conducted weekly from which instruction the ministers are trained to deliver sermons and speak effectively in all features of their preaching activity.

The *Watchtower* study conductor is appointed to preside over the weekly study of the *Watchtower* magazine, the official publication of the Society designed to improve the ability, broaden the knowledge and add to the instructiveness of each minister in the field.

Classification of Presiding Ministers and Assistants

The proper classification of a servant in a company would, of necessity, depend on whether he is pursuing the ministry as his vocation rather than as his avocation. If the facts show that a servant, even though devoting forty hours per week to secular work, pursues his ministry as a vocation rather than an avocation, he is a minister of religion. It is not the incidental work that a servant in the congregation, acting as presiding minister or his assistant, does on the side to earn a living that determines his right to exemption. It is whether he regularly discharges his duties as a minister and follows it as a vocation. It would be a distortion of history and the facts to say that a minister who has dedicated his life to the ministry may be deprived of his exemption because of the number of hours he devotes to secular work to support himself in the futherance of his ministry. Even forty hours per week in secular work would not affect his ministerial status and the fact that he follows it as a vocation. His vocation is that of a minister, not secular work. His avocation is secular work when not engaged in the performance of his ministerial duties.

Part-Time Ministers

Part-time ministers, known as company publishers, also devote their lives to the furtherance of the preaching of the gospel by means of the distribution of Bibles and Bible literature, the holding of home Bible studies and the performance of public street preaching by the distribution of magazines and leaflets. These part-time ministers, although finding it necessary to support themselves and their families and to provide the necessities of life by secular work, view this ministerial activity as their vocation. The dedication of their lives to the ministry, their ordination and the manner in which they preach and teach is identical to that of the full-time pioneer ministers.

The activity of part-time ministers of Jehovah's witnesses has been considered by a number of courts. Those courts have found that the work of part-time ministers is religious within the meaning of the constitutions and statutes applicable. Moreover, it has been found that in the performance of this work such part-time ministers act as missionary evangelists or ministers of religion.

In *Murdock* v. *Pennsylvania*, 319 U. S. 105, the Court found that the "petitioners are 'Jehovah's witnesses'. . . . Petitioners spread their interpretations of the Bible and their religious beliefs largely through the hand distribution of literature by full or part-time workers. They claim to follow the example of Paul, teaching 'publickly, and from house to house'. Acts 20:20. They take literally the mandate of the Scriptures. 'Go ye into all the world, and preach the gospel to every creature.' Mark 16:15. . . . The hand distribution of religious tracts

is an age-old form of missionary evangelism—as old as the history of printing presses. It has been a potent force in various religious movements down through the years. This form of evangelism is utilized today on a large scale by various religious sects whose colporteurs carry the Gospel to thousands upon thousands of homes and seek through personal visitations to win adherents to their faith. It is more than preaching; it is more than distribution of religious literature. It is a combination of both. Its purpose is as evangelical as the revival meeting. This form of religious activity occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits. It has the same claim to protection as the more orthodox and conventional exercises of religion. . . . We only hold that spreading one's religious beliefs or preaching the Gospel through distribution of religious literature and through personal visitations is an age-old type of evangelism with as high a claim to constitutional protection as the more orthodox types. . . . But the mere fact that the religious literature is 'sold' by itinerant preachers rather than 'donated' does not transform evangelism into a commercial enterprise. If it did, then the passing of the collection plate in church would make the church service a commercial project. . . . It is a distortion of the facts of record to describe their activities as the occupation of selling books and pamphlets. . . . Those who can tax the privilege of engaging in this form of missionary evangelism can close its doors to all those who do not have a full purse. Spreading religious beliefs in this ancient and honorable manner would thus be denied the needy."

In *Follett* v. *McCormick*, 321 U. S. 573, the Court said that the appellant was one of Jehovah's witnesses "and has been certified by the Watch Tower Bible & Tract Society as 'an ordained minister of Jehovah God to preach the gospel of God's kingdom under Christ Jesus.' . . . We must accordingly accept as *bona fide* appellant's assertion that he was 'preaching the gospel' by going 'from house to house presenting the gospel of the kingdom in printed form.' Thus we have quite a different case from that of a merchant who sells books at a stand or on the road. The question is therefore a narrow one. It is whether a flat license tax as applied to one who earns his livelihood as an evangelist or preacher in his home town is constitutional. . . . But if this license tax would be invalid as applied to one who preaches the Gospel from the pulpit, the judgment below must be reversed. . . . He who makes a profession of evangelism is not in a less preferred position than the casual worker."

In *Commonwealth* v. *Akmakjian*, 316 Mass. 97, 55 N. E. 2d 6, the Massachusetts Supreme Judicial Court said: "We are of opinion that the case is largely governed in principle by *Commonwealth* v. *Richardson*, 313 Mass. 632, 638, in which we said, in part, that ordained ministers of Jehovah's witnesses who were going from house to house to spread the teachings of their religious faith could not be found properly to come within the category of 'peddlers or agents or canvassers,' and that it has 'been held in many cases [citing authorities] that ordinances regulating the conduct of such persons cannot be extended to cover the activities of ministers who go about on the streets or from house to house preaching or distributing or selling literature relating to their faith.' "

In *Semansky* v. *Stark*, 196 La. 307, 199 S. 129, the Louisiana Supreme Court found that the "plaintiff was . . . disseminating the doctrines of the religious sect of which he was a member and a minis-

ter". That Louisiana court, in reviewing its holding, in *Shreveport* v. *Teague* (200 La. 679, 8 S. 2d 640), said: "On the contrary, a reading of the opinion will disclose that we found that the mere fact that the plaintiff, an itinerant preacher, was selling literature fostering the doctrines he was professing, did not make him a peddler as defined by the license tax law. The same deduction is applicable to the case at bar. The fact that the relator preaches his religious views from house to house and distributes literature in support of his beliefs, for which he obtains contributions does not render him amendable to the provisions of an ordinance which forbids the visitation (without request) in and upon private residences by solicitors, peddlers, etc., for the purpose of soliciting orders for the sale of goods or for disposing of or peddling the same."

In *Shreveport* v. *Teague*, above, the court found that Teague was "an ordained minister of a religious sect known as 'Jehovah's witnesses' and is a member of an organization called the 'Watch Tower Bible and Tract Society'. . . . He is admittedly an ordained minister of a religious sect, who, instead of voicing his views from a pulpit, travels as an itinerant preacher, from house to house. The fact that relator, as an incident to his preachings, attempts to sell literature which is conformable with his religious beliefs does not alter the nature of his profession or make him a solicitor, hawker or itinerant merchant."

In *Thomas* v. *Atlanta*, 59 Ga. App. 520, 1 S. E. 2d 598, the Georgia Court of Appeals, in reversing the conviction of one of Jehovah's witnesses, said that it was not "the duty of an ordained minister of the Gospel to register his business with the City. Neither is it peddling for such minister to go into homes and play a victrola, or to preach therein or to sell or distribute literature dealing with his faith if the owner of such home does not object. The preaching and teaching of a minister of a religious sect is not such a business as may be required to register and obtain and pay for a license so to do".

In *State* v. *Meredith*, 197 S. C. 351, 15 S. E. 2d 678, the South Carolina Supreme Court said that Meredith was one of Jehovah's witnesses and that he was a "minister of the Gospel, and if the party solicited was interested, he offered for sale one or more of the books and pamphlets referred to. . . . The testimony shows that the main and primary purpose and occupation of the defendant was to preach and teach principles drawn from the Bible, in accordance with his faith, wherever one or two were gathered together and would listen to him. . . . And in our opinion it is not peddling, as that word is usually construed, nor a violation of the statute, for a minister, under the circumstances shown here, to visit the homes of the people, absent objection, and as a part of his preaching and teaching to offer to sell or sell religious literature explanatory of his faith, where no profit motive is involved."

The United States District Court for the District of Colorado, in *Donley* v. *Colorado Springs*, 40 F. Supp. 15, in granting an injunction held that Jehovah's witnesses were entitled to relief, among other things, because "the plaintiff, a minister of the Gospel, is not within the definition of the ordinance".

Counsel on Theocratic Organization

A more detailed and descriptive analysis of the structure of Jehovah's witnesses and the duties and responsibilities of the various ministers and servants is given in the booklet *Counsel on Theocratic Organization* accompanying this memorandum and marked as Appendix B.

ALL JEHOVAH'S WITNESSES ARE CONSCIENTIOUS OBJECTORS ENTITLED TO BE PLACED IN CLASS IV-E

The Selective Service Regulations under the 1948 Act read in reference to the classification of those having conscientious objections to war, as follows:

"Section 1622.20 Class IV-E: Conscientious Objector Opposed to Both Combatant and Noncombatant Training and Service.—(a) In Class IV-E shall be placed any registrant who, by reason of religious training and belief, is found to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces."

Any registrant who, even though a minister of the gospel is as a matter of fact and law also a conscientious objector having scruples against and objections to the performance of any training and service may sign Series XI appearing in the Classification Questionnaire (SSS Form 100) and request that the local board mail, send or deliver to him the Special Form for Conscientious Objector (SSS Form 150). Series XI reads:

"By reason of religious training and belief I am conscientiously opposed to participation in war in any form and for this reason request that the local board furnish me a Special Form for Conscientious Objector (SSS Form No. 150) which I am to complete and return to the local board for its consideration."

A person who is found by his board not exempt as a minister of religion may have conscientious objections to participation in all wars waged by nations of this world and to combatant and noncombatant service based on religious belief in relation to Almighty God. Such person is excused from all training and service under the Act. The beliefs of Jehovah's witnesses on which they base such conscientious objections will now be discussed.

Conscientious Objectors but Not Pacifists

The point has been raised that because Jehovah's witnesses are not pacifists that they are not entitled to claim the benefits accorded by the law to conscientious objectors. Jehovah's witnesses emphatically deny being pacifists. They will fight under certain circumstances; therefore they do not fit the definition of a pacifist, yet they are conscientious objectors.

Jehovah God is not the author of confusion or inconsistency. (1 Corinthians 14:33) Based on God's law in the Bible Jehovah's witnesses are not inconsistent in claiming, as ministers, not to be pacifists while claiming to be conscientious objectors. Representatives of "Caesar" (the nations of the world) wrest the words of Jehovah's witnesses on this point as well as the words of the Chief Witness, Christ Jesus. This was foretold by Jehovah, through the words of the psalmist at Psalm 56:5.

Caesar and his representatives contend that the words of the Lord Jesus recorded at Mark 12:17, "Render to Cæsar the things that are Cæsar's, and to God the things that are God's," mean to obey all Caesar's commands even to the point of stopping the preaching of the gospel and thereby breaking covenant with Almighty God. Jehovah's witnesses are conscientious objectors to such commands of Caesar. They gladly render to him the things that are Caesar's. They refuse, however, to render to him the things that are God's. These belong to Jehovah God alone and to Caesar will they not render worship.

When ordered to take up arms and fight in Caesar's army of this world Jehovah's witnesses raise their conscientious objections to quit worshiping and serving Jehovah and thereby render unto Caesar the things that are God's. They take this stand as ministers with conscientious objections notwithstanding the fact that they are not pacifists.

This conscientious objection to rendering military service to Caesar and in Caesar's army is based solely upon the commands of God's Word, the Bible, because they are His ministers or ambassadors for the new world of righteousness. (2 Corinthians 5:20) These are, therefore, conscientious objections to performance of military service, which are based on Bible grounds. They are not pacifists. They are ministers conscientiously opposed to the performance of military service and any other service as a part of the war efforts of the nations of the Devil's world. "We know that we are children of God, and that the whole world lies in the power of the evil one." (1 John 5:19, *Weymouth*) They are, therefore, conscientious objectors and ministers, or ministers with conscientious objections.

Self-Defense Based on Religious Training and Belief

It is entirely consistent for a minister to be a conscientious objector and yet not be a pacifist. Pacifism means refusal to fight or kill under any circumstances. A Christian minister will fight and even kill under some circumstances, which are limited. Jehovah's witnesses are not pacifists, because they will fight when God authorizes them to fight. They will fight in defense of their ministry and their brothers. (Matthew 12:49, 50) They have precedent for fighting for Jehovah's work and their brothers. Abraham fought in order to protect and rescue Lot. (Genesis 14) Nehemiah and his brothers fought to defend Jehovah's work in rebuilding the walls of Jerusalem.—Nehemiah 4.

One of Jehovah's witnesses is authorized by the law of God to defend his own life. (*The Watchtower*, September 15, 1939) In order to protect himself and his life he may use force to such extent as appears reasonably necessary. If required to repel and quell a bodily attack upon himself and his brothers, he may use force to the extent of killing. This is authorized by the law of the land. A Christian minister need not always retreat before defending himself against an aggressor. Sometimes retreat under the circumstances would be more dangerous than to stand one's ground and fight.

The law of God and the law of the land authorize a person to protect his home against crime or violence. Jehovah's witnesses are justified in killing a person that breaks into their home if it is necessary to repel the assault. (Exodus 22:2) These are the only circumstances when the use of force or killing is authorized by the law of God. There are no other circumstances where the law of God authorizes killing.

Neutrality Based on the Law of God

There is absolutely no Scriptural authorization for Jehovah's witnesses to bear arms in the service of the armed forces of any nation. Based on such training and belief Jehovah's witnesses have conscientious objections to rendering such service and training. These objections are conscientiously based upon the law of Almighty God. That law, which is supreme, commands the true Christian minister to maintain an attitude of strict neutrality toward participation in international, national or local conflicts. This strict neutrality required by the supreme law is enforced by the commands of God which prohibit Jehovah's witnesses from bearing arms or joining the armed forces of the nations of this world. See "Neutrality", *The Watchtower*, November 1, 1939; booklet *Neutrality*, Watchtower, Brooklyn, 1939; *The Watchtower*, February 1, 1951.

The fact that entering Caesar's armed forces is usually by conscription of forced service does not make it Scriptural. Regardless of whether the service is voluntary or by capitulation to commands the situation is the same: the Christian minister of Jehovah thus gets unscripturally involved in the affairs of the nations of this world. He who is a friend of the world is an enemy of God. (James 4:4) A Christian minister does not take a course of action that is at enmity with God. He must follow in the footsteps of the Lord Jesus Christ and keep himself unstained by the world. (1 Pet. 2:21; James 1:27, *An American Translation*) This he does by faithfully sticking to his post of duty as a minister and ambassador of Jehovah. He does not abandon it to participate in the controversies of this world of Satan.

It is true that Jehovah's witnesses, as Christian ministers of God, reside in all the nations of the world. That fact does not mean that they are mixed up with the political affairs or the international controversies of such nations. They are in the world but not of it. Jesus prayed to His Father, "I have given your word to them, but the world has hated them, because they are no part of the world just as I am no part of the world." (John 17:14, 16, *New World Translation*) Jehovah, through Christ Jesus, has taken them out of the controversies and affairs of this world and drawn them into the exclusive business of preaching the good news of Jehovah's kingdom, and carrying His warning message of the coming battle of Armageddon as ambassadors to the nations of the world. "As for us, our citizenship exists in the heavens, from which place also we are eagerly waiting for a savior, the Lord Jesus Christ."—Philippians 3:20, *New World Translation;* John 15:19.

Jehovah's witnesses must not entangle themselves in the affairs of this world. This is because they are soldiers in the army of Jehovah. "Thou therefore endure hardness, as a good soldier of Jesus Christ. No man that warreth entangleth himself with the affairs of this life; that he may please him who hath chosen him to be a soldier." (2 Timothy 2:3, 4) As such Christian soldiers they fight to get the message about God's kingdom to every creature.—Mark 16:15.

Jehovah's witnesses fight lawfully as such soldiers with all of the legal instruments, such as the constitutional rights, the statutory rights and other lawful rights granted to them by the nations of this world. They fight for freedom on the home front of the nation where they reside. They fight to defend and legally establish the good news before courts, ministers, officials, administrative boards and other

agencies of governments. (Philippians 1:7, 16; *New World Translation*) They fight with weapons which are not carnal. These are the mouth, the faculty of reason, the process of logic and the law of the land. "For though we walk in the flesh, we do not wage warfare according to what we are in the flesh. For the weapons of our warfare are not fleshly, but powerful by God for overturning strongly entrenched things. For we are overturning reasonings and every lofty thing raised up against the knowledge of God, and we are bringing every thought into captivity to make it obedient to the Christ." —2 Corinthians 10:3-5, *New World Translation; Weymouth.*

In addition to the legal instruments that such Christian soldiers use, the great weapon that they wield among the nations of the earth is the "sword of the spirit, which is the word of God". (Ephesians 6:17) As soldiers of Jehovah and Christ they put on only the uniform that is prescribed by the law of God for Christian soldiers, His witnesses, to wear. That uniform is the armor of God. They have on the helmet of salvation and the breastplate of righteousness. They bear the shield of faith and wield the sword of the spirit, valiantly defending the righteous principles of Almighty God as commanded by the Apostle Paul: "Put on the complete suit of armor from God that you may be able to stand firm against the machinations of the Devil; because we have a fight, not against blood and flesh, but against the governments, against the authorities, against the world-rulers of this darkness, against the wicked spirit forces of the heavenly places. On this account take up the complete suit of armor from God, that you may be able to resist in the wicked day and, after you have done all things thoroughly, to stand firm."—Ephesians 6:11-13, *New World Translation.*

Since they are in the Lord's army of Gospel preachers, they certainly have conscientious objections to serving in the armies of the evil world of Satan. As soldiers of God they cannot engage in the conflicts and warfare that flow from the affairs of this world. They cannot be in two armies at the same time. Since they have been enlisted and serve in the Lord's army as His ministers they must be at their missionary posts of duty. They cannot leave such posts in order to take up service in some other army. To quit the Lord's army and join the armies of Satan's world would make the soldiers of God deserters. Deserters are covenant-breakers. "Covenantbreakers . . . are worthy of death." (Romans 1:31, 32) The nations of this world cannot excuse the Lord's soldier from the penalty of death prescribed by Almighty God for deserters from his army. Caesar, not being able to relieve him from his covenant obligations or violations thereof, should not command him to become a renegade and deserter from the Lord's army to join his. That would result in his everlasting death. "And do not become fearful of those who kill the body but can not kill the soul; but rather be in fear of him that can destroy both soul and body in Gehenna. Do not be afraid of the things you are destined to suffer. Look! the Devil will keep on throwing some of you into prison that you may be fully put to the test, and that you may have tribulation ten days. Prove yourselves faithful even with the danger of death, and I will give you the crown of life."—Matthew 10:28; Revelation 2:10, *New World Translation.*

In the Hebrew Scriptures there are many cases where Jehovah's witnesses fought and used violence and carnal weapons of warfare. They fought in the armies of the nation of Israel. At the time they

fought as members of the armed forces of Israel it was God's chosen nation. They did not, however, enlist or volunteer in the armies of the foreign nations round about. They fought only in the armed forces of Israel, the nation of God. They did not join the armies of the Devil's nations. They maintained strict neutrality as to the warring nations who were their neighbors. When Jehovah abandoned and destroyed His chosen nation, he abandoned completely and forever the requirement that His people fight with armed forces. Since then there has been no force used by His witnesses in any armed force.

There is no record in the Bible that any of the faithful Israelites enlisted in the armed forces of or fought in behalf of any of the Devil's countries or nations. To the contrary we have the instance of Abraham who maintained his neutrality. (Genesis 14) Also to the same effect is Zerubbabel, a soldier of Jehovah, who had a covenant to rebuild the temple. He refused to participate in the military conflicts that the world power, Medo-Persia, got into. He remained strictly neutral. For so doing he was accused of sedition and was prosecuted. Jehovah, however, blessed him for his neutral stand and for keeping to his post of duty under his covenant obligations.—Ezra 5:1-17; 6:1-22.

This position of strict neutrality, requiring refusal to participate in international conflicts between the forces of the nations of Satan's world is also based on the Bible ground that Jehovah's witnesses are ambassadors who serve notice of the advance of the great warrior, Christ, who is leading a vast army of invisible warriors of the only armed force of Jehovah. (2 Corinthians 5:20; Revelation 19:14) He is advancing against Satan's organization, all of which, human and demon, he will destroy at the battle of Armageddon.

Jehovah's witnesses do not participate in the modern-day armed forces of Jehovah. (2 Chronicles 20:15-17) Participation in that armed force is limited to the powerful angelic host, lead by the invisible Commander, Christ Jesus. He rides at the front on his great white warmount. (Revelation 19:11-14) The weapons of the invisible forces of Jehovah are unseen but destructive weapons. Such will make the weapons of Caesar's armed forces of this world like children's toys in comparison. (Joel 3:9-15; Isaiah 40:15) Jehovah's weapons of destruction at Armageddon will be used by only His invisible forces, and not by Jehovah's witnesses.

The weapons of warfare wielded by Jehovah's witnesses are confined to instruments that cannot be used in violent warfare. They use the "sword of the spirit, which is the word of God", as His Christian soldiers and ambassadors to warn the nations of this world of the coming battle of Armageddon. That will result in the defeat of all of Satan's armies and the wiping off the face of the earth of all of the nations and governments of this evil world. "For it is my decision to gather nations, to assemble kingdoms, that I may pour out my wrath upon them, all the heat of my anger. For in the fire of my zeal, all the earth shall be consumed." (Zephaniah 3:8, *An American Translation;* Jeremiah 25:31-33; Nahum 1:9, 10) They therefore cannot give up the weapons of their warfare and take up the weapons of violence in behalf of the nations of the world of Satan. The use of such weapons by Jehovah's witnesses and their participation in any way in the international armed conflicts would be in defiance of the unchangeable law of Almighty God.

There is no record that the Lord Jesus or his apostles or disciples entered the armies of Caesar. The record of secular history shows that

the early Christians at Rome refused to fight in Caesar's army. They were thrown to the lions and persecuted because of following the command of Christ Jesus to disassociate themselves from the affairs of the evil world.

The basis of objections to military service by followers of Christ Jesus, including the early Christians at Rome and their modern-day counterparts, Jehovah's witnesses, can best be summed up by Jesus, who declared, "My kingdom is no part of this world. If my kingdom were part of this world, my attendants would have fought that I should not be delivered up to the Jews. But, as it is, my kingdom is not from this source." (John 18: 36, *New World Translation*) Since Jehovah's witnesses are not of this world, then, as the Lord Jesus did not, they cannot fight in or join up with the armed forces of the nations of this world represented by Caesar. They render, accordingly, unto God that which is God's by remaining steadfastly in His army of witnesses and refusing to volunteer or submit to the armed forces of Caesar in international conflicts. They render unto Caesar all obligations of citizenship that do not require them to violate God's law. Thus they do as Jesus said: "Pay back Caesar's things to Caesar, but God's things to God."—Mark 12: 17, *New World Translation.*

Jehovah's witnesses do not advocate that the governments of this world do not have the right to raise armies from those other than the ministers of God. They do not teach others of Jehovah's witnesses or people who are not to refuse to support the armed forces or volunteer for service. It would be wrong to do so. They render unto Caesar the things that are Caesar's by not teaching the subjects of Caesar to refuse to fight. Jehovah's witnesses do not aid, abet or encourage persons who are not ministers with conscientious objections to resist the commands of Caesar. They do not, in fact, tell each other what to do or not to do. Each witness of Jehovah decides by himself alone what course he shall take. His decision as to whether to render to God what is God's is dictated by his individual understanding of the law of God in the word of Jehovah, the Bible. His decision is formed not by the written or printed word of the Society or any person among Jehovah's witnesses. See the article "Neutrality", *The Watchtower*, November 1, 1939, and the article "An Important Letter to the Department of Justice", published in *Consolation* No. 551, October 30, 1940.

Entitled to Classification as Conscientious Objectors

The Selective Service Act of 1948 provides for the deferment of conscientious objectors, as well as the exemption of ministers of religion. Jehovah's witnesses are entitled to claim the exemption granted to the ministers of God and the orthodox clergy. They are also entitled to the deferment extended to the conscientious objectors whose refusal to participate in warfare is based on religious training and belief, notwithstanding the fact that they are not pacifists. In complying with such law by claiming such ministerial exemption and deferment they render to Caesar the things that belong to Caesar. They are therefore consistent in making their claim. They are conscientious objectors but not pacifists. In taking this stand they continue and remain God's ministers, properly called the witnesses of Jehovah.

Jehovah's witnesses do not consider the Act unconstitutional. They believe that it is within the province of a nation to arm itself and resist attack or invasion. It is admitted that the Government has the

authority to take all reasonable, necessary and constitutional measures to gear the nation for war and so lubricate the war machinery as to keep it working effectively.

Conscription of man power for the purpose of waging war is of ancient origin. Before the Roman Empire and early world powers, the nation of Israel registered men for military training and service. Complete exemption from military service and training was provided, however, for ministers and priests known as "Levites". Twenty-three thousand of the first registration were completely exempt according to statistics. Under this system of raising and maintaining an army the Jewish nation fought many battles and gained many victories. Since the destruction of the Jewish nation, Jehovah's witnesses have been neither commanded nor authorized to conscript man power or wage wars. They are not organized as a nation in the world as were the Israelites. They are in the world as ambassadors to represent God's kingdom, as witnesses to proclaim the Theocracy, the only hope of the people of good will to obtain peace, prosperity, happiness and life. They neither oppose nor advocate opposition to or participation by others in war. Each one individually, for himself, determines what course he must take according to the perfect Word of God. As one of the "royal priesthood", Jehovah's witnesses, like the Levites, lay claim to complete exemption from military service according to the provision of the Act because they are ordained ministers of the gospel of God's kingdom. This position of strict neutrality is the position taken by everyone who fights not with carnal weapons and faithfully and strictly follows in the footsteps of Christ Jesus and preaches the gospel as did He and His apostles, according to the Holy Word of God.

History shows that the early Christians claimed exemption from military service required by the Roman Empire, because they were set apart from the world as a royal priesthood to preach God's kingdom. Hence they were neutral as to war. They claimed complete exemption from training and service, which was disallowed by the Roman Empire. Because they refused military service they were cruelly persecuted, sawn asunder, burned at the stake and thrown to the lions. See Henry C. Sheldon, *History of the Christian Church*, 1894, Crowell & Co., New York, p. 179 *et seq.;* E. R. Appleton, *An Outline of Religion*, 1934, J. J. Little & Ives Co., New York, p. 356 *et seq.;* Capes, *Roman History*, 1888, Scribner's Sons, New York, p. 113 *et seq.;* Willis Mason West, *The Ancient World*, 1913, Allyn & Bacon, Boston, pp. 522-523, 528 *et seq.;* Capes, *The Roman Empire of the Second Century*, Scribner's Sons, New York, p. 135 *et seq.;* Ferrero & Barbagallo, *A Short History of Rome* (translated from Italian by George Chrystal), Putnam's Sons, New York, 1919, p. 380 *et seq.;* Hayes & Moon, *Ancient and Medieval History*, 1929, The Macmillan Company, New York, p. 432; Willis Mason West and Ruth West, *The New World's Foundations in the Old*, 1929, Allyn & Bacon, New York, p. 131; Joseph Reither, *World History at a Glance*, 1942, Garden City Publishing Co., Inc., New York, p. 102; Francis S. Betten, S. J., *The Ancient World*, 1916, Allyn & Bacon, Boston, p. 541, *et. seq.*

CLASSIFICATION TO BE MADE ACCORDING TO STATUS AT TIME OF THE CLASSIFICATION RATHER THAN WHEN QUESTIONNAIRE FILED

It is not what the status of the registrant was prior to or at the time of his registration that determines the registrant's rights under the Act and Regulations. It is what his occupation and status are on the date of the final classification that determines the legality of the action of the board. This would also apply to the objection made that a registrant did not become a full-time minister until after he had been classified. The fact is that if he is a full-time pioneer minister devoting 100 hours per month to his ministry in the field at the time of his final classification, then he certainly should be exempted under the Act.

In the case of *United States* ex rel. *Hull* v. *Stalter*, 151 F. 2d 633 (C. A. 7), it was contended that Hull had full-time secular work until after he filed his questionnaire, following his registration. Moreover, it was urged that he did not go into the full-time ministry until after he saw he was about to be drafted. Also it was contended that Hull did not have his name on a list certified to be full-time ministers. The court found that it was the status of the registrant at the time of the final classification that determined the validity of the order. The court said:

"We see no reason why a registrant with a non-exempt status at the time of registration should not subsequently be permitted to show that his status has changed or, conversely, why one who is exempt at the time of registration should not afterwards be shown to be non-exempt. . . . The point perhaps is better illustrated by referring to certain officials who are deferred from military service while holding office. Suppose a registrant who held no office at the time of his registration and was therefore liable for military service should subsequently be elected or appointed judge of a court or any other office mentioned in the Act. We suppose it would not be seriously contended but that he would be permitted to show his changed status any time prior to his induction into service and therefore be entitled to deferment. And we see no reason why a registrant claiming to be exempt as a minister should not be classified according to his status at the time of his final classification rather than at the time of registration."

IRRELEVANT MATTERS SHOULD NOT BE CONSIDERED IN CLASSIFICATION OF REGISTRANTS

It has been held by one of the federal courts of appeals (United States Court of Appeals of the Sixth Circuit) that Selective Service boards must not decide cases on a *non sequitur* basis. The draft boards may not reach the conclusion that Jehovah's witnesses are not ministers or that they are not entitled to classification as ministers because they have not attended a theological seminary. This recent decision is styled *Niznik* v. *United States* and *Comodor* v. *United States*, decided on October 18, 1950. In the opinion, among other things, the court said:

"Although the members of the draft board performed long, laborious, and patriotic duties, nevertheless, their ruling in this regard, that appellants were not entitled to classification as ministers of religion, was based not upon the evidence or information in appellant's files, or upon a belief in the truthfulness of the statements made by appellants, but upon the fact that they were members of Jehovah's Witnesses.

The regulation pertaining to ministerial classification in this case was plain. . . .

"Disregard of this provision, and refusal to classify as a minister of religion solely on the ground that appellants were members of a religious sect and that they had not attended a religious seminary and had been regularly ordained, was arbitrary and contrary to the law and regulations. 'In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious or other organization. Each registrant shall receive equal and fair justice.' Section 623.1 (c) of the Selective Service Regulations.

"The classification of the local board, accordingly, was invalid, and its action void. The judgments are, therefore, reversed, the convictions are set aside, and appellants are discharged."

A printed copy of that decision is attached hereto and marked as Appendix C.

CONCLUSION

It is respectfully submitted that a broad, liberal interpretation should be put upon the provisions of the Act exempting ministers and deferring conscientious objectors. A liberal interpretation would completely exempt all pioneers, circuit servants, district servants and members of the Bethel Family as ministers of religion. It would also include all other ministers of Jehovah's witnesses who can show, regardless of their title or the nature of their duties in the congregation, that they regularly and customarily teach and preach as a vocation rather than as an avocation.

A fair and liberal interpretation of the Act and Regulations would also lead to the classification of all of Jehovah's witnesses as conscientious objectors to both combatant and noncombatant service.

Respectfully submitted,

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APPENDIX A

UNITED STATES CIRCUIT COURT OF APPEALS

SEVENTH CIRCUIT

No. 8869

[151 F. 2d 633]

OCTOBER TERM AND SESSION 1945

UNITED STATES OF AMERICA, ex. rel.
FLOYD EUGENE HULL,

Relator-Appellee

vs.

JOHN STALTER, Director of Civilian Public Service Camp at Medaryville, Indiana,

Respondent-Appellant

Appeal from the District Court of the United States for the Northern District of Indiana, Hammond Division.

Before SPARKS, MAJOR and KERNER, *Circuit Judges.*

OPINION

November 6, 1945

MAJOR, *Circuit Judge.* This action was instituted by a petition for writ of habeas corpus to obtain the release of relator (Floyd Eugene Hull) from Civilian Public Service Camp No. 28, Medaryville, Indiana. He alleged that he was illegally restrained of his liberty by reason of an order issued by Local Board No. 2 for Perry County, at Somerset, Ohio, dated February 8, 1944, commanding him to report to said camp for work of national importance. Relator alleged that at the time of his registration and at the time of his final classification, the proof submitted by him to the Selective Service System showed that he was exempt as a minister of religion under § 5 (d) of the Selective Training and Service Act of 1940, as amended, in that he was a duly ordained minister of Jehovah's witnesses and the Watchtower Bible and Tract Society, constituting a recognized religious organization under the Act. Among other things, he alleged that the Board denied his claim for exemption from all training and service as a minister of religion because of arbitrariness, unfairness, capriciousness, usurpation of authority and by illegal action. In support of this charge of illegal action on the part of the Board, relator set forth a detailed history of his case before the Selective Service System. The material allegations of the petition were put in issue by respondent's answer. A trial was had, after which the court, on February 9, 1945, entered judgment discharging the relator from custody. We are now confronted with an appeal from this judgment.

While numerous questions are presented and discussed, we are of the view that the essential issue is whether the record made before the Board justified its refusal to classify relator in 4-D, as a minister of religion exempt under § 5 (d) of the Act from training and service. Certain questions are raised which have a direct bearing upon this issue and which we think should first be disposed of. The trial court heard a number of witnesses concerning relator's activities from the date of his registration down to the trial, evidently offered for the purpose of showing that the refusal of the Board to classify him as a minister was erroneous. This was in addition, of course, to the documentary evidence which appeared in the Board's file. We think this proof was improperly heard. It must be remembered that the sole question decided by the Selective Service System was that of relator's classification. That issue was determinable both by the Local Board and the Board of Appeal from the evidence contained in relator's file. It is our view that the court could not properly consider evidence other than that which was considered by the Selective Service System.

Relator cites cases as authority for the action of the court in hearing this testimony but none of them are in point. Furthermore, we know of no authority in a proceeding of this kind which justifies the admission of any proof except that which was considered by the agency charged with the responsibility of making the original determination. However, this oral testimony as offered by relator and heard by the court was without objection. We therefore think its erroneous admission was waived. Furthermore, inasmuch as this was a trial by the court without a jury, we think that we may with propriety ignore such evidence and decide the essential question from the documentary proof.

There is another question which under some circumstances might be of considerable moment, that is, whether relator's classification should be determined according to his status at the time of his registration or at the time of his final classification. The record before us, however, leaves little room for any contention in this respect. The court in its opinion stated:

> "In the argument of counsel at the conclusion of the hearing it was conceded by the government that each registrant is entitled to be classified as of the time the classification is made rather than as of the time he registers, or, for that matter, as of any other time."

The government here contends that this statement by the court was erroneous, relying on an inquiry directed by the court to a member of the Indiana Selective Service System and the latter's response thereto. We agree that this response furnishes meager, if any, support for the court's statement. However, the record also discloses that the case, at the conclusion of the testimony, was argued by counsel for both sides and this argument, or the greater portion thereof, is omitted from the transcript. Under such circumstances, we are unable to say that the court's statement is incorrect; in fact, we think that we must accept it.

Moreover, we also have read the regulations and are of the view that this purported concession on the part of the government was correct. We see no reason why a registrant with a non-exempt status at the time of registration should not subsequently be permitted to show that his status has changed or, conversely, why one who is exempt at the time of registration should not afterwards be shown to be non-exempt. In fact, the latter situation seems to be contemplated by § 5 (h) of the Act, which provides that "no * * * exemption or deferment * * *

shall continue after the cause therefor ceases to exist." The point perhaps is better illustrated by referring to certain officials who are deferred from military service while holding office. Suppose a registrant who held no office at the time of his registration and was therefore liable for military service should subsequently be elected or appointed judge of a court or any other office mentioned in the Act. We suppose it would not be seriously contended but that he would be permitted to show his changed status any time prior to his induction into service and therefore be entitled to a deferment. And we see no reason why a registrant claiming to be exempt as a minister should not be classified according to his status at the time of his final classification rather than that at the time of registration.

Whether there was any warrant in law for the Board's refusal to classify the relator as a minister involves a consideration of the facts as disclosed from his file. In doing so, no useful purpose can be served in reviewing or discussing the numerous cases wherein courts have attempted to determine the function of a court in this kind of case. To do so would merely demonstrate the contrariety of views which have been expressed. To our way of thinking, the rule has been aptly stated in *United States ex. rel. Trainin* v. *Cain*, 144 F. 2d 944, 947:

> "Thus it is error reviewable by the courts when it appears that the proceedings conducted by such boards 'have been without or in excess of their jurisdiction, or have been so manifestly unfair as to prevent a fair investigation, or that there has been a manifest abuse of the discretion with which they are invested under the act.' "

In the instant case, the attack on the Board's refusal to classify relator as a minister is reduced to the question as to whether the Board manifestly abused its discretion. If so, its action was arbitrary and capricious and hence in violation of due process. Such abuse of discretion, so we think, must be clearly demonstrated and cannot be held to exist if there is any rational basis upon which the Board's conclusion can be justified.

Relator registered under the Act with Local Board No. 2 for Perry County, Ohio, on July 1, 1941, and on February 3, 1943 (about nineteen months later), was finally classified as a conscientious objector, under class 4-E. During that time, relator repeatedly filed with the Local Board documentary evidence which disclosed that his entire time was devoted to performance of his duties as a minister of religion. Respondent places great stress upon the information contained in relator's questionnaire which was filed a few days subsequent to his registration. This disclosed that he was 21 years of age, was a graduate of high school and that he was a minister of religion, customarily serving as a minister of Jehovah's Witnesses since November 1, 1935; that he had been ordained as such minister on September 19, 1937; that he was still attending a divinity school conducted by Jehovah's Witnesses at Kingdom Hall in Crooksville, Ohio; that he had been raised as a Jehovah's Witness and had been preaching in the vicinity of his home since 1935; that in preparing for the ministry he attended the ministerial school from two to three times each week; that he spent several hours each Sunday and one evening each week preaching to the people as a missionary evangelist from house to house and by conducting Bible studies in homes; that he was an office clerk doing stenographic work for the A. E. Hull Pottery Company, Crooksville, Ohio, earning approximately $26.00 per week.

He also stated in his questionnaire that he expected his job to end about September 1, 1941, and that he expected to start working as a full-time missionary evangelist under the direction of the Watchtower Bible and Tract Society on September 1, 1941; that such Society had assigned him to the missionary field in Minneapolis, Minnesota, where he would be required to "spend not less than 150 hours per month in his full-time service for the Lord"; that the reason he engaged in secular work was to prepare himself for the full-time ministry and to sustain himself in his regular ministry part time, as did the apostles of the Lord Jesus Christ, so as not to be a burden upon their brethren, which secular work was secondary to his primary purpose of preaching the gospel.

Submitted with his questionnaire was a letter from the Watchtower Bible and Tract Society showing his appointment as a full-time missionary evangelist as of September 1, 1941. It admonished him, among other things, that he must devote a minimum of 150 hours per month in preaching from door to door.

About September 1, 1941, relator was assigned to the missionary field in Minneapolis, Minnesota, and from that time on he devoted his full-time to ministerial work. That such is the case was conclusively shown by affidavits submitted by numerous persons who had personal knowledge of the work in which the relator was engaged up until the time of his induction. A statement of the contents of these numerous affidavits would unduly prolong this opinion. It is sufficient, so we think, to state that we have read and considered all the proofs submitted and there is not a scintilla of evidence that relator from the time he went to Minnesota, about September 1, 1941, until the time of his induction was engaged in any work other than that performed in his ministerial capacity. Neither is there any room to doubt his honesty, sincerity and devotion to the cause which he represented. His parents before him were members of Jehovah's witnesses, he was reared in the faith and from early childhood had an ambition to become a full-fledged minister.

The Board on September 18, 1941, placed the relator in class 1-A-O, as a conscientious objector available for non-combatant military service. This classification evidently was based largely, if not entirely, upon the information contained in relator's questionnaire. From the time it was made until the time of his induction, his classification was opposed by the relator, and during all that time he contended that he was entitled to be classed as 4-D, a minister of religion. The Board on November 21, 1941, was advised by the State Headquarters, in response to an inquiry, that relator's name did not appear on the certified list. On December 10, 1941, the Board of Appeal classified relator in class 1-A-O. Shortly thereafter, the National Headquarters of the Selective Service System requested of the Local Board information as to whether or not relator was "at the present time employed in any secular occupation or if he appears to devote all his time to the work of Jehovah's Witnesses." In response to this letter, the Board on January 12, 1942, advised the National Headquarters as to the secular work performed by relator prior to the time of the filing of his questionnaire. The letter contained no information, however, as to the work in which relator was engaged at the time it was written, which was the information requested by the National Headquarters. The Board in this letter also stated its derogatory opinion of Jehovah's witnesses in general and intimated that their claims for exemption or deferment were merely for the purpose of evading military service.

On March 26, 1942, the Local Board, in compliance with the ruling of the Board of Appeal, reclassified relator, placing him in class 1-A-O. On April 9, 1942, he was ordered to report for induction into the armed forces for limited service. For failure to comply with the order he was reported to the United States Attorney in Ohio as a delinquent. His case was referred to the Department of Justice, who advised the United States Attorney that in view of the additional evidence submitted by relator, his case should again be referred to the Board of Appeal and that as the file existed at that time, no prosecution could be had. The file was returned to the Board of Appeal which on June 3, 1942, classified relator in 4-D, as a minister of religion. The State Director suggested to the Board of Appeal that it was without jurisdiction to classify relator for the reason that he was delinquent. The Board of Appeal, acting upon such suggestion, cancelled relator's 4-D classification. Again, on August 21, 1942, relator's file was returned to the Board of Appeal on recommendation of an Assistant Attorney General of the United States. On that occasion, the Board of Appeal found that relator should not be classified in 4-D or any other classification which deferred or exempted him.

Thereupon, his case was referred to the Department of Justice, Federal Bureau of Investigation, for an inquiry into the background, sincerity and status of relator as a conscientious objector. This investigation proceeded from August 25 to December 4, 1942. A report was filed with the Board of Appeal on or about February 3, 1943. This report discloses the result of the investigation and concludes: "This man is a sincere believer in his faith and has a very fine personal record." During the time his case was being investigated by the F.B.I., relator submitted numerous additional affidavits which showed that he was actively engaged in ministerial work. On June 27, 1942, the Board forwarded to relator an occupational questionnaire. In response thereto, he again informed the Board in detail the character of his ministerial work and again requested of the Board that he be classified as 4-D. All this additional evidence was submitted to the Board and placed in its file. Duplicate copies were forwarded to the State Headquarters of the Selective Service System.

On February 3, 1943, relator was finally classified by the Board of Appeal in class 4-E, a conscientious objector available for work of national importance. On April 27, 1943, relator notified the draft board that his field of ministerial activity had been changed from Minnesota to Lawrenceburg, Indiana, where he was still performing his duties as a full-time missionary evangelist. Shortly thereafter his case was referred to the Dearborn County Local Board No. 1, Lawrenceburg, Indiana, for processing upon his assignment to do work of national importance. That Board reviewed the facts of the case and in a letter to the State Selective Service System of Indiana dated July 22, 1943, expressed the opinion that relator was not a draft evader and that he was entitled to a 4-D classification and suggested that fairness required that an investigation be made to determine why he had not been so classified.

Relator was ordered to report on August 9, 1943, to do work of national importance. Failing to report, his case was submitted to the District Attorney of Indiana, who refused to prosecute and in a letter to the Lawrenceburg Board suggested that it refuse to take any further action against the registrant because of their belief that "registrant is entitled to a 4-D classification." He suggested that the case be

returned to the Ohio Board, which was done. That Board ordered him to report for induction, and on September 28, 1944, he arrived at the camp, where he remained until discharged in the instant proceeding.

Much is said in the briefs both complimentary and derogatory to Jehovah's Witnesses. With this argument we are not concerned. Whatever a draft board or a court, or anybody else for that matter, may think of them is of little consequence. The fact is, they have been recognized by the Selective Service System as a religious organization and are entitled to the same treatment as the members of any other religious organization. We do not agree with relator's argument that all members of the organization are ministers and exempt from military service. Neither do we agree with the government's argument that the activities and doings of all the members of the organization may be taken into consideration in determining whether a particular member is entitled to exemption. In our view, every registrant, whether he be Jehovah's Witness or otherwise, is entitled to have his status determined according to the facts of his individual case. Also, a registrant's classification should be determined by the realities of the situation, not merely by what he professes. A registrant is not entitled to exemption merely because he professes to be a minister, but he is entitled to such exemption if his work brings him within that classification.

Selective Service Regulations (622.44) recognize two classes of ministers, (1) a regular minister of religion, and (2) a duly ordained minister of religion. The former "is a man who customarily preaches and teaches the principles of religion of a recognized charge [*sic*, properly "church"], religious sect, or religious organization of which he is a member * * *." The latter "is a man who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church * * *." The Selective Service System has even more broadly defined the term "regular minister of religion." Under the heading, "Special Problems of Classification" (Selective Service in Wartime, Second Report of the Director of Selective Service, 1941-42, pages 239-241), it is stated:

> "The ordinary concept of 'preaching and teaching' is that it must be oral and from the pulpit or platform. Such is not the test. Preaching and teaching have neither locational nor vocal limitations. The method of transmission of knowledge does not determine its value or affect its purpose or goal. One may preach or teach from the pulpit, from the curbstone, in the fields, or at the residential fronts. He may shout his message 'from housetops' or write it 'upon tablets of stone'. He may give his 'sermon on the mount', heal the eyes of the blind, write upon the sands while a Magdalene kneels, wash disciples' feet or die upon the cross. * * * He may walk the streets in daily converse with those about him telling them of those ideals that are the foundation of his religious conviction, or he may transmit his message on the written or printed page, but he is none the less the minister of religion if such method has been adopted by him as the effective means of inculcating in the minds and hearts of men the principles of religion. * * * To be a 'regular minister' of religion the translation of religious principles into the lives of his fellows must be the dominating factor in his own life, and must have that continuity of purpose and action that renders other purposes and actions relatively unimportant."

A study of this record leaves no room for doubt but that relator, at the time of his final classification and for many months prior thereto, was a full-time minister within the meaning of the regulation and this pronouncement of the Selective Service System. He was not performing secular work of any kind or character. There is not a scintilla of proof which impugns his honesty, good faith or devotion to the cause. Respondent makes no criticism of relator in this respect. Neither has the Selective Service System of Ohio done so insofar as relator is individually concerned. Such criticism as is disclosed by the record was directed entirely at Jehovah's Witnesses as a class.

In our view, there are only two circumstances which could at any time have furnished the slightest justification for the Board's refusal to classify relator as a minister, (1) information contained in his questionnaire and (2) the fact that he was not registered with the National Headquarters of the Selective Service System as a minister. True, his questionnaire disclosed that he was not a full-time minister, part of his time being devoted to secular occupations. The questionnaire, however, also disclosed that commencing September 1, 1941, he expected to cease his secular activities and devote all of his time to ministerial work. That his intention in this respect was fully performed is not open to dispute. There is not a scintilla of evidence upon which a contrary conclusion or even a reasonable inference could be predicated. The fact that his name was not included as a minister of Jehovah's Witnesses at National Headquarters of the Selective Service System is of little or no consequence under the facts of the case. While it perhaps was a circumstance to be considered by the Board, it constituted no proof as to relator's actual status. Furthermore, the practice of placing names upon this list was discontinued by the National Director of Selective Service on November 2, 1942 (relator was finally classified February 3, 1943). We have serious doubt that there was any justification for the Board's refusal originally to classify relator in 4-D. Whatever be thought, however, of the Board's original action in this respect, there can be no question but that subsequent proof conclusively demonstrated that he was entitled to such classification.

Such being the situation, the Board abused its discretion in its refusal to so classify him. Its action was arbitrary and unauthorized. The order discharging relator is

AFFIRMED.

APPENDIX B

(Accompanying this memorandum)

APPENDIX C

Nos. 11122, 11123

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 11,122

PETER NIZNIK,
Appellant,
v.
UNITED STATES OF AMERICA,
Appellee.

No. 11,123

RAYMOND COMODOR,
Appellant,
v.
UNITED STATES OF AMERICA,
Appellee.

APPEALS from Judgments of the District Court of the United States for the Eastern District of Tennessee, Northern Division.

Decided October 18, 1950.

Before ALLEN, MARTIN, and MCALLISTER, Circuit Judges.

PER CURIAM. These cases have been before this court on prior appeals in which judgments of conviction were reversed and the causes remanded for new trial. *Niznik* v. *United States*, *Comodor* v. *United States*, 173 F. 2d 328. In our opinion, in which the facts relating to the controversy were fully set forth, we outlined certain uncontradicted testimony of appellants stating that if such testimony on retrial should be substantially the same and undisputed, appellants would be entitled to acquittals.

On the retrial in which appellants were again convicted, their testimony was substantially the same, but certain of that testimony was contradicted. It appears, however, that the testimony of appellants was not disputed, to the effect that one member of the local draft board said that he "knew all about Jehovah's Witnesses work and they said to me that they weren't going to give them a IV-D classification," and that they "told me that they were familiar with Jehovah's Witnesses and that they could not give Jehovah's Witnesses a IV-D because they weren't like orthodox religious clergymen,—who went to a theological seminary. . . . They told me that so far as Jehovah's Witnesses were concerned they weren't going to give them a IV-D. . . . As far as Jehovah's Witnesses are concerned no IV-D for them."

The government contends, since it is admitted that certain material portions of appellants' testimony regarding statements made by members of the local board were expressly and emphatically contradicted by the sworn testimony of three board members, that the testimony of appellants in a material matter stands impeached, if the testimony of the board members is accepted—as it is bound to have been accepted by the jury in order to reach a verdict of guilty; and that where witnesses are impeached as to a material matter, it is a question for the

jury as to what credibility or weight is to be given the remainder of such testimony.

The foregoing contention, however, loses its force, upon consideration of the testimony of the board members on this point. While material portions of appellants' testimony were contradicted, the board chairman testified that "There was only one thing to do, and that was to classify that man in accordance with Selective Service rules. The classification that he was finally put in was IV-E that was the classification for those who were Jehovah's Witnesses." The board chairman further testified that in order to have a IV-D, or minister's classification, a registrant would have to show he was a regularly ordained minister; that he had attended a theological seminary and had been educated for the ministry; and that he had made his living by that vocation. Another of the members of the board testified that he had stated, on the classification hearing, that appellants were not entitled to a minister's classification because they had not gone to a theological seminary and that that was his view of the matter; that appellants had never been ordained; that, in order to be ordained, a person had to graduate and be ordained by his church; and that no one could be considered a minister of religion unless he had been regularly ordained.

Although the members of the draft board performed long, laborious, and patriotic duties, nevertheless, their ruling in this regard, that appellants were not entitled to classification as ministers of religion, was based not upon the evidence or information in appellants' files, or upon a belief in the truthfulness of the statements made by appellants, but upon the fact that they were members of Jehovah's Witnesses. The regulation pertaining to ministerial classification in this case was plain.

> "(a) In Class IV-D shall be placed any registrant who is a regular or duly ordained minister of religion * * *
>
> "(b) A regular minister of religion is a man who customarily preaches and teaches the principles of religion of a recognized church, religious sect, or religious organization of which he is a member, without having been formally ordained as a minister of religion; and who is recognized by such church, sect, or organization as a minister." Section 622.44 of the Selective Service Regulations.

Disregard of this provision, and refusal to classify as a minister of religion solely on the ground that appellants were members of a religious sect and that they had not attended a religious seminary and had been regularly ordained, was arbitrary and contrary to the law and regulations. "In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious, or other organization. Each registrant shall receive equal and fair justice." Section 623.1 (c) of the Selective Service Regulations.

The classification of the local board, accordingly, was invalid, and its action void. The judgments are, therefore, reversed, the convictions are set aside, and appellants are discharged.

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